

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

# CONTEMPORARY AUSTRALIAN TORT LAW

*Contemporary Australian Tort Law* is an engaging, accessible and student-friendly introduction to the law of torts in Australia. This unique text presents the foundational topics of tort law in a logical way, covering duty of care, breaches, negligence, damages and defences, as well as higher level topics such as defamation and offences in public office.

Each chapter is supported by tools for self-assessment and self-reflection: review questions throughout the chapter; case boxes that delve into important historical cases; and longer, narrative problems that challenge students to apply the principles learned in the chapter to real-world scenarios.

Exploring the history of torts in Australia alongside more recent cases and newer issues, *Contemporary Australian Tort Law* is both comprehensive and user-friendly. This book is an indispensable resource for law students taking their first course in tort law.

**Joanna Kyriakakis** is a Senior Lecturer at Monash University.

**Tina Popa** is a Lecturer at RMIT University.

**Francine Rochford** is an Associate Professor at La Trobe University.

**Natalia Szablewska** is a Senior Lecturer at Southern Cross University.

**Xiaobo Zhao** is a Lecturer at the University of Southern Queensland.

**Jason Taliadoros** is a Senior Lecturer at Deakin University.

**Darren O'Donovan** is a Senior Lecturer at La Trobe University.

**Lowell Bautista** is a Senior Lecturer at the University of Wollongong.

Cambridge University Press

978-1-108-62625-5 — Contemporary Australian Tort Law

Joanna Kyriakakis , Tina Popa , Francine Rochford , Natalia Szablewska , Xiaobo Zhao , Jason Taliadoros , Darren

---

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

# CONTEMPORARY AUSTRALIAN TORT LAW

Joanna Kyriakakis  
Tina Popa  
Francine Rochford  
Natalia Szablewska  
Xiaobo Zhao  
Jason Taliadoros  
Darren O'Donovan  
Lowell Bautista

Cambridge University Press

978-1-108-62625-5 — Contemporary Australian Tort Law

Joanna Kyriakakis , Tina Popa , Francine Rochford , Natalia Szablewska , Xiaobo Zhao , Jason Taliadoros , Darren

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

## CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India

79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9781108626255](http://www.cambridge.org/9781108626255)

© Cambridge University Press 2020

This publication is copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2020

Cover designed by Anne-Marie Reeves

Typeset by Integra Software Services Pvt. Ltd

Printed in China by C & C Offset Printing Co. Ltd, August 2019

*A catalogue record for this publication is available from the British Library*

*A catalogue record for this book is available from the National Library of Australia*

ISBN 978-1-108-62625-5 Paperback

Additional resources for this publication at [www.cambridge.edu.au/academic/tortlaw](http://www.cambridge.edu.au/academic/tortlaw)

### **Reproduction and communication for educational purposes**

The Australian *Copyright Act 1968* (the Act) allows a maximum of one chapter or 10% of the pages of this work, whichever is the greater, to be reproduced and/or communicated by any educational institution for its educational purposes provided that the educational institution (or the body that administers it) has given a remuneration notice to Copyright Agency Limited (CAL) under the Act.

For details of the CAL licence for educational institutions contact:

Copyright Agency Limited

Level 12, 66 Goulburn Street

Sydney NSW 2000

Telephone: (02) 9394 7600

Facsimile: (02) 9394 7601

E-mail: [memberservices@copyright.com.au](mailto:memberservices@copyright.com.au)

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

# CONTENTS

<i>Using your VitalSource eBook</i>	<i>xviii</i>
<i>Guide to instructor resources</i>	<i>xxi</i>
<i>List of figures and tables</i>	<i>xxii</i>
<i>Table of cases</i>	<i>xxv</i>
<i>Table of statutes</i>	<i>lv</i>
<i>About the authors</i>	<i>lxvi</i>
<i>Acknowledgements</i>	<i>lxviii</i>
<b>Chapter 1 Introduction to the law of torts</b>	<b>1</b>
<b>1.1</b> Introduction and purpose of tort law	2
1.1.1 What is tort law?	2
1.1.1.1 Purpose of tort law	4
1.1.2 Theories of tort law	6
1.1.2.1 Corrective and distributive justice and economic efficiency	6
1.1.2.2 Feminist critiques	9
1.1.3 Tort law and human rights	12
1.1.4 Overview of intentional torts	17
1.1.5 Overview of negligence	18
1.1.6 Tort law and the Stolen Generations litigation	23
1.1.6.1 Litigation	26
1.1.6.2 Compensation and reparation	30
1.1.7 Litigating a tort claim	32
1.1.7.1 Procedure	33
1.1.7.2 Proof	34
1.1.7.3 Time limitations	34
1.1.7.4 Uninsured defendant	35
<b>1.2</b> Civil liability reforms	36
1.2.1 Background to the reforms	36
1.2.2 Overview of the key amendments	37
1.2.3 Response to the reforms	38
1.2.4 Effects of the reforms	38
<b>1.3</b> Australian statutory compensation schemes	39
1.3.1 Transport accident compensation	40
1.3.2 Workers compensation	40

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

1.3.3 National Disability Insurance Scheme	41
1.3.4 Victims of crime compensation schemes	42
<b>1.4 International compensation schemes</b>	<b>42</b>
1.4.1 No-fault schemes	42
1.4.1.1 New Zealand	43
Key concepts	44
Problem-solving exercise	44
Challenge yourself	45
<b>Chapter 2 Duty of care</b>	<b>46</b>
<b>2.1 Introduction</b>	<b>47</b>
<b>2.2 Duty of care: general principles</b>	<b>49</b>
2.2.1 The 'neighbour' principle	49
2.2.2 The rise and fall of 'proximity'	52
2.2.3 The current law	54
<b>2.3 Duty of care: established categories</b>	<b>54</b>
2.3.1 Manufacturer–consumer	57
2.3.2 Employer–employee and master–servant	58
2.3.3 Occupier–entrant	59
2.3.4 Doctor–patient	61
2.3.5 Teacher–pupil and school authority–pupil	61
2.3.6 Duty owed to a rescuer	63
2.3.7 Users of the highway	64
<b>2.4 Duty of care in the novel case</b>	<b>65</b>
2.4.1 Identifying risk: what is foreseeable?	65
2.4.2 'Salient features' or the 'multi-factorial' approach	66
2.4.2.1 Foreseeability	67
2.4.2.2 Plaintiff's harm	68
2.4.2.3 Control	68
2.4.2.4 Vulnerability	69
2.4.2.5 Reliance	70
2.4.2.6 Assumption of responsibility	71
2.4.2.7 Proximity	71
2.4.2.8 Category of relationship	72
2.4.2.9 Nature of the activity	72
2.4.2.10 Nature or degree of danger or hazard	72
2.4.2.11 Knowledge that the conduct will cause harm	73
2.4.2.12 Potential indeterminacy of liability	73
2.4.2.13 Avoidance of harm	74
2.4.2.14 Effect on autonomy or freedom	74
2.4.2.15 Conflicting duties	75
2.4.2.16 Consistency with statute	75
2.4.2.17 Conformance and coherence of structure and fabric of common law	75

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

<b>2.5</b>	Special duty relationships	76
2.5.1	Duty to prevent psychological injury ('mental harm')	77
2.5.1.1	What is mental harm?	77
2.5.1.2	Policy factors in mental harm cases	77
2.5.1.3	Early decisions	78
2.5.1.4	Development of liability	79
2.5.2	Duty to prevent pure economic loss	81
2.5.2.1	The difference between pure and consequential economic loss	82
2.5.2.2	Pure economic loss due to negligent misstatement	82
2.5.2.3	Pure economic loss due to other factors	86
2.5.3	Special defendants: occupiers	87
2.5.3.1	Meaning of occupier	87
2.5.3.2	Early law: categories of entrant	87
2.5.3.3	Modern law	87
2.5.4	Special defendants: public authorities	88
2.5.4.1	Interpretation of the relevant statute	89
2.5.4.2	Common law duty of care	90
2.5.5	Special defendants: a duty to control others	90
2.5.5.1	When does a duty to control others arise?	92
2.5.6	Non-delegable duties	93
2.5.6.1	Occupier and entrant	93
2.5.6.2	Independent contractors	94
2.5.6.3	Employer and employee	94
2.5.6.4	School authorities	95
	Key concepts	96
	Problem-solving exercise	96
	Challenge yourself	97
<b>Chapter 3</b>	<b>Breach of duty of care</b>	<b>98</b>
<b>3.1</b>	Introduction	99
3.1.1	What is negligent conduct?	101
3.1.2	No degrees of breach	102
3.1.3	Relevance of past findings of breach	102
3.1.4	Importance of the civil liability legislation	103
<b>3.2</b>	Setting the standard of care: the reasonable person	105
3.2.1	An objective standard	105
3.2.2	Relevant characteristics of the defendant	107
3.2.2.1	Age	107
3.2.2.2	Physical and mental impairment	109
3.2.2.3	Intoxication	111
3.2.2.4	Possession of special skills	112
3.2.2.5	Experience	113
3.2.2.6	Status of professionals	115
3.2.2.7	Public authorities	119

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

3.2.3 Time of assessment	121
<b>3.3 Applying the standard of care: demonstrating breach</b>	<b>122</b>
3.3.1 Reasonable foreseeability	124
3.3.2 'Not insignificant' risk	127
3.3.3 The negligence calculus	128
3.3.3.1 Probability	129
3.3.3.2 Seriousness	131
3.3.3.3 Burden of taking precautions	132
3.3.3.4 Social utility	135
3.3.3.5 Legislative standards	136
3.3.3.6 Common practice	137
3.3.4 Failure to warn	138
<b>3.4 Proving breach</b>	<b>141</b>
3.4.1 The use of inference in negligence law	142
3.4.2 Evidential considerations	145
Key concepts	145
Problem-solving exercises	146
Challenge yourself	147
<b>Chapter 4 Damage: Factual causation and scope of liability</b>	<b>149</b>
<b>4.1 Introduction</b>	<b>150</b>
4.1.1 The kind of damage recognised by law	152
4.1.2 The 'loss of a chance' in medical negligence	154
4.1.2.1 The wrongful birth cases	155
4.1.2.2 The wrongful life cases	157
4.1.2.3 The wrongful death cases	158
<b>4.2 Factual causation</b>	<b>161</b>
4.2.1 Onus and standard of proof	161
4.2.1.1 The maxim <i>res ipsa loquitur</i>	162
4.2.2 Civil liability legislation	164
4.2.2.1 The 'necessary condition' test	166
4.2.3 Common law (historical overview and interpretive framework)	170
4.2.3.1 The 'but for' test	171
4.2.3.2 The 'commonsense' test	175
4.2.3.3 The 'material contribution' test (cases of cumulatively caused injury)	176
<b>4.3 Scope of liability</b>	<b>178</b>
4.3.1 Remoteness of damage	180
4.3.1.1 The reasonable foreseeability test	181
4.3.1.2 The 'eggshell skull' principle	182
4.3.2 The chain of causation and intervening causes	184
4.3.2.1 Breaking the chain of causation	184
4.3.2.2 Voluntary human action	187
4.3.2.3 Causally independent events	188



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

4.3.2.4	Successive causes leading to a similar damage	189
	Key concepts	190
	Problem-solving exercise	190
	Challenge yourself	191
<b>Chapter 5</b>	<b>Defences to negligence</b>	<b>192</b>
<b>5.1</b>	Introduction	193
<b>5.2</b>	Contributory negligence	194
5.2.1	Definitions and rationale	195
5.2.2	The standard of care for contributory negligence	195
5.2.2.1	General rule	195
5.2.2.2	Children	197
5.2.2.3	Plaintiffs with disabilities	198
5.2.2.4	Intoxication	202
5.2.2.5	Employees	206
5.2.3	Causation	207
5.2.4	Apportionment	208
<b>5.3</b>	Voluntary assumption of risk	211
5.3.1	Definitions and rationale	211
5.3.2	Knowledge of risk	213
5.3.2.1	Obvious risks	214
5.3.2.2	Unavoidable risks	215
5.3.3	Appreciation of the risk of injury	216
5.3.4	Voluntary acceptance of risk	217
<b>5.4</b>	Illegality	218
5.4.1	Is illegality a defence?	218
5.4.2	The common law position	218
5.4.3	State legislative variations	219
<b>5.5</b>	Other defences	220
5.5.1	Limitation of actions	220
5.5.2	Good Samaritans and volunteers	221
	Key concepts	222
	Problem-solving exercise	223
	Challenge yourself	223
<b>Chapter 6</b>	<b>Trespass to the person</b>	<b>224</b>
<b>6.1</b>	Introduction	225
<b>6.2</b>	Historical origins of trespass and relationship with negligence	225
6.2.1	Trespass	226
6.2.2	Action on the case	226
6.2.3	Choosing between trespass and case	227

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

<b>6.3</b>	The trespass action	231
6.3.1	Direct interference	232
6.3.2	Fault of the defendant	232
6.3.2.1	Intention	232
6.3.2.2	Lack of care	234
6.3.3	Actionable per se	234
6.3.4	Onus of proof	234
<b>6.4</b>	Trespass to the person	236
6.4.1	Battery	236
6.4.1.1	A positive act	237
6.4.1.2	Direct application of force	238
6.4.1.3	Unlawful touching or offensive contact	238
6.4.1.4	Fault of the defendant	242
6.4.2	Assault	242
6.4.2.1	Threat of imminent harmful or offensive contact	244
6.4.2.2	Reasonable apprehension	247
6.4.2.3	Subjective intention	249
6.4.3	False imprisonment	250
6.4.3.1	Direct interference	251
6.4.3.2	Restraint in all directions	254
6.4.3.3	The defendant at fault	262
<b>6.5</b>	Remedies for trespass to the person	264
	Key concepts	264
	Problem-solving exercise	265
	Challenge yourself	265
<b>Chapter 7</b>	<b>Trespass to land and trespass to personal property</b>	<b>266</b>
<b>7.1</b>	Introduction	267
<b>7.2</b>	Trespass to land	267
7.2.1	Defining trespass to land	269
7.2.2	Title to sue: possession	269
7.2.2.1	Plaintiff's interest	269
7.2.2.2	Tenants and lessors	271
7.2.2.3	Licensees	271
7.2.2.4	Easements and <i>profit à prendre</i>	271
7.2.2.5	Co-owners	272
7.2.3	Actionable interferences	272
7.2.3.1	Direct interference	272
7.2.3.2	Interference with land	273
7.2.4	Interference without lawful justification	278
7.2.4.1	Express licence	278
7.2.4.2	Implied licence	280
7.2.4.3	Exceeding the licence	282

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

7.2.4.4	Revocation or withdrawal of licence	284
7.2.4.5	Authorised by law	285
7.2.4.6	Trespass ab initio	289
7.2.4.7	Continuing trespass	290
7.2.5	Fault	290
<b>7.3</b>	<b>Trespass to personal property</b>	<b>292</b>
7.3.1	Trespass to goods	295
7.3.1.1	Title to sue	296
7.3.1.2	Bailment exception	297
7.3.1.3	Direct interference	300
7.3.1.4	Fault	300
7.3.2	Conversion	301
7.3.2.1	Title to sue	302
7.3.2.2	Repugnant dealing	305
7.3.2.3	Fault	310
7.3.3	Detinue	311
7.3.3.1	Title to sue	311
7.3.3.2	Demand and refusal	312
7.3.3.3	Fault	313
	Key concepts	314
	Problem-solving exercise	314
	Challenge yourself	314
<b>Chapter 8</b>	<b>Defences to and remedies for trespass</b>	<b>316</b>
<b>8.1</b>	<b>Introduction</b>	<b>317</b>
<b>8.2</b>	<b>Defences to trespass</b>	<b>320</b>
8.2.1	Self-defence	320
8.2.2	Defence of another	323
8.2.3	Defence of property	324
8.2.4	Necessity	325
8.2.4.1	Imminent danger	326
8.2.4.2	Reasonable necessity	327
8.2.4.3	Imminent danger not due to the defendant's fault	328
8.2.4.4	Proportionate to the danger to be avoided	328
8.2.5	Abatement	329
8.2.5.1	Recaption of goods	329
8.2.5.2	Re-entry of land	331
8.2.5.3	Abatement of nuisance	332
8.2.6	Consent	332
8.2.6.1	Express or implied consent	333
8.2.6.2	Real and voluntarily given	336
8.2.6.3	Capacity to consent	337
8.2.6.4	Revocation and expiration of consent	340
8.2.6.5	Scope of consent	341

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

8.2.7	Disciplinary powers	341
8.2.8	Inevitable accident	342
8.2.9	Non-defences	343
8.2.9.1	Provocation	343
8.2.9.2	Mistake	343
8.2.9.3	Contributory negligence	344
8.2.9.4	Incapacity	344
<b>8.3</b>	<b>Remedies for trespass</b>	<b>345</b>
8.3.1	Remedies for trespass to the person	345
8.3.1.1	Nominal damages	345
8.3.1.2	Compensatory damages	345
8.3.1.3	Aggravated damages	346
8.3.1.4	Exemplary damages	347
8.3.1.5	Injunctions	348
8.3.2	Remedies for trespass to land	348
8.3.2.1	Nominal damages	349
8.3.2.2	Compensatory damages	349
8.3.2.3	Aggravated damages	350
8.3.2.4	Exemplary damages	351
8.3.2.5	Injunctions	351
8.3.2.6	Self-help	353
8.3.2.7	Mesne profits	353
8.3.3	Remedies for trespass to personal property	353
8.3.3.1	Remedies for trespass to goods	353
8.3.3.2	Remedies for conversion	355
8.3.3.3	Remedies for detinue	356
	Key concepts	358
	Problem-solving exercise	359
	Challenge yourself	359
<b>Chapter 9</b>	<b>Nuisance</b>	<b>360</b>
<b>9.1</b>	<b>Introduction</b>	<b>361</b>
9.1.1	Private nuisance: interference with the use and enjoyment of land	362
<b>9.2</b>	<b>Unreasonable interference</b>	<b>364</b>
9.2.1	Type of damage	366
9.2.1.1	Physical: material damage	367
9.2.1.2	Non-physical: interference with use and enjoyment of land	368
9.2.2	The principle of triviality	368
9.2.3	Locality	370
9.2.4	Intensity, time and duration	372
9.2.5	The sensitive plaintiff	373
9.2.6	The nature of the defendant's activity and the public interest	374
9.2.7	Practicality of avoiding interference	375

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

9.2.8 Malice	375
9.2.9 An ultimate question of fact	376
<b>9.3</b> Who can sue?	378
<b>9.4</b> Who can be sued?	379
9.4.1 Creators of a nuisance	379
9.4.2 Authorisation of a nuisance	379
9.4.3 Adopting or continuing a nuisance	380
<b>9.5</b> Unprotected interests	382
9.5.1 The right of support	382
9.5.2 The right to a view and aesthetic appearance	382
9.5.3 The right of privacy	383
<b>9.6</b> Defences	384
9.6.1 Prescription	384
9.6.2 Statutory authorisation	384
9.6.3 Non-defences	387
9.6.3.1 Coming to the nuisance	387
9.6.3.2 Nuisance due to numerous independent acts	388
<b>9.7</b> Remoteness of damage	388
<b>9.8</b> Relationship with other torts	390
9.8.1 Private nuisance and public nuisance	390
9.8.2 Private nuisance and negligence	390
9.8.3 Nuisance and trespass to land	391
<b>9.9</b> Public nuisance	391
9.9.1 Unreasonable and substantial interference	392
9.9.2 Special or particular damage	392
9.9.3 Conclusion	395
Key concepts	396
Problem-solving exercise	396
Challenge yourself	396
<b>Chapter 10 Vicarious liability and non-delegable duty</b>	<b>397</b>
<b>10.1</b> Introduction	398
<b>10.2</b> Vicarious liability	399
10.2.1 The 'agency' theory of vicarious liability	401
10.2.2 Vicarious liability in the employment context	404
10.2.2.1 The master–servant theory	405
10.2.2.2 Establishing an employer–employee relationship	406
10.2.3 Acting in the course (scope) of employment	410
10.2.3.1 Establishing the scope of employment	410
10.2.4 Exception to employer's vicarious liability	414
10.2.5 Employer's right of indemnity	415

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

<b>10.3</b>	Non-delegable duty	416
10.3.1	Special relationships	418
10.3.1.1	Hospitals	419
10.3.1.2	Schools	421
10.3.1.3	Occupiers of premises	421
10.3.1.4	Places of employment	423
10.3.1.5	Prisons and detention facilities	423
<b>10.4</b>	Cases on the non-delegable duty of care and vicarious liability	424
10.4.1	Legal liability of an employer for acts of sexual abuse committed by an employee	426
10.4.1.1	Non-delegable duty	427
10.4.1.2	Vicarious liability	428
	Key concepts	433
	Problem-solving exercise	434
	Challenge yourself	434
<b>Chapter 11</b>	<b>Defamation</b>	<b>435</b>
<b>11.1</b>	Introduction and purpose of defamation laws	436
11.1.1	What is defamation?	437
11.1.2	Purpose of defamation law	437
11.1.3	Background to the uniform defamation legislation	439
11.1.4	Existing defamation legislative frameworks	440
11.1.5	Common law and legislative frameworks	440
<b>11.2</b>	Elements of defamation	441
11.2.1	Does the matter contain a defamatory imputation?	442
11.2.1.1	Definition of 'matter'	442
11.2.1.2	Defamatory imputations	442
11.2.1.3	True and false innuendo	443
11.2.1.4	Definition of 'defamatory'	443
11.2.2	Does the matter identify the plaintiff?	450
11.2.2.1	Express identification of plaintiff	450
11.2.2.2	Reasonable to identify plaintiff	450
11.2.3	Has the statement been published?	453
11.2.3.1	Definition and interpretation of 'publication'	453
11.2.4	Standing to sue	455
<b>11.3</b>	Defences	457
11.3.1	Justification	458
11.3.2	Contextual truth	460
11.3.3	Absolute privilege	463
11.3.4	Publication of public documents	464
11.3.5	Fair report of proceedings of public concern	466
11.3.6	Qualified privilege	466
11.3.7	Honest opinion	470

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

11.3.8 Innocent dissemination	472
11.3.9 Triviality	473
<b>11.4 Remedies</b>	<b>473</b>
11.4.1 Damages	474
11.4.1.1 Economic loss	474
11.4.1.2 Non-economic loss	474
11.4.1.3 Aggravated damages	475
11.4.1.4 Exemplary damages prohibited	475
11.4.2 Injunction	475
11.4.3 Role of apology	476
<b>11.5 Defamation and social media</b>	<b>476</b>
11.5.1 Introduction to defamation and the internet	476
11.5.2 Liability of anonymous users	477
11.5.3 Liability of intermediaries	478
<b>11.6 Privacy and breach of confidentiality</b>	<b>483</b>
Key concepts	487
Problem-solving exercise	488
Challenge yourself	488
<b>Chapter 12 Remedies</b>	<b>489</b>
<b>12.1 Introduction</b>	<b>490</b>
<b>12.2 Self-help remedies</b>	<b>491</b>
12.2.1 Eviction of trespassers and protection of land and goods from trespassers	492
12.2.2 Self-defence of the person	492
12.2.2.1 Elements of self-defence	492
12.2.2.2 Reasonable need to protect oneself	493
12.2.2.3 Force used was reasonable	493
12.2.3 Recaption, replevin and specific restitution	495
12.2.3.1 Recaption	495
12.2.3.2 Replevin	495
12.2.3.3 Specific restitution	496
12.2.4 Abatement of nuisance	496
<b>12.3 Damages</b>	<b>497</b>
12.3.1 Introduction	497
12.3.1.1 'Damage' and 'damages'	497
12.3.1.2 'Special' and 'general' damages	497
12.3.1.3 Damages 'at large' (aggravated damages)	497
12.3.2 Types of damages	498
12.3.2.1 Compensatory damages	498
12.3.2.2 Nominal damages	498
12.3.2.3 Contemptuous damages	499
12.3.2.4 Vindictory damages	499

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

12.3.2.5 Restitutionary damages	500
12.3.2.6 Aggravated damages	500
12.3.2.7 Exemplary damages	501
12.3.3 Compensatory damages for property damage	507
12.3.3.1 Cost of repair or diminished value?	508
12.3.4 Restitutionary damages for property damage	513
12.3.5 Compensatory damages for personal injury	513
12.3.5.1 Four basic principles	513
12.3.5.2 The impact of the civil liability legislation on compensatory damages	515
12.3.5.3 Heads of damage	515
12.3.6 Pecuniary damages	518
12.3.6.1 Loss of earning capacity and loss of earnings	518
12.3.6.2 Net earnings	519
12.3.6.3 Assessment period	520
12.3.6.4 Earnings cap	521
12.3.6.5 Hospital and medical expenses	521
12.3.6.6 Gratuitous services provided to the plaintiff	524
12.3.6.7 Loss of ability of plaintiff to provide gratuitous services to others	529
12.3.6.8 Deductions or allowances	531
12.3.7 Non-pecuniary damages	539
12.3.7.1 Heads of damage	539
12.3.7.2 Thresholds and caps	539
12.3.7.3 Method for assessment of damages	540
12.3.7.4 Pain and suffering	541
12.3.7.5 Loss of amenities of life	542
12.3.7.6 Loss of expectation of life	542
12.3.8 Claims upon the death of a person	543
12.3.8.1 Claims by the estate of the deceased (survival of causes of action claim)	543
12.3.8.2 Claims by the dependants of the deceased (dependants' action)	545
12.3.8.3 Damages	549
12.3.9 Other factors affecting the assessment of damages	551
<b>12.4 Injunctions</b>	552
12.4.1 Types of injunctions	552
12.4.2 In what circumstances is an injunction ordered?	552
12.4.2.1 Is a proprietary interest required?	553
12.4.2.2 Adequacy of damages as a remedy	553
12.4.2.3 Rights protected by injunction	553
12.4.2.4 Quia timet injunctions	555
12.4.2.5 Discretionary factors and bars to relief	555
12.4.2.6 Interlocutory injunctions: requirements	555
<b>12.5 Multiple tortfeasors</b>	556
12.5.1 Liability	556
12.5.1.1 Joint tortfeasors versus several tortfeasors	556
12.5.1.2 Concurrent liability	556



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

12.5.1.3 Solidary liability	557
12.5.1.4 Proportionate liability	557
12.5.1.5 Joint tortfeasors: what is the effect of judgment and a release?	557
12.5.1.6 Proportionate liability under legislation	558
12.5.1.7 Liability of several tortfeasors for distinct damage	559
12.5.2 Contribution	560
12.5.2.1 Who may claim contribution?	560
12.5.2.2 Against whom may contribution be claimed?	561
12.5.2.3 Assessment of contribution	561
Key concepts	561
Problem-solving exercise	562
Challenge yourself	562
<b>Chapter 13 Torts arising from statutory duties and powers</b>	<b>563</b>
<b>13.1</b> Introduction	564
<b>13.2</b> Action for breach of statutory duty	564
13.2.1 When will this action be available?	564
13.2.2 Elements of the action	565
13.2.2.1 Did Parliament intend to allow an action under the particular statute?	565
13.2.2.2 Does the plaintiff belong to the class of persons protected by the statute?	570
13.2.2.3 Does the defendant bear the relevant duty under the statute?	571
13.2.2.4 Was the duty breached?	571
13.2.2.5 Does the damage suffered fall within the scope of the statute?	573
13.2.2.6 Did the breach cause the injury suffered by the plaintiff?	574
13.2.2.7 Defences	575
<b>13.3</b> Misfeasance in public office	576
13.3.1 A public law tort	576
13.3.2 Elements of the tort	577
13.3.2.1 Is the defendant the 'holder of a public office'?	577
13.3.2.2 Is the defendant fulfilling a public function?	579
13.3.2.3 Did the defendant have the requisite intention?	580
13.3.2.4 Did the plaintiff suffer material damage?	583
13.3.3 Liability of government entities for misfeasance of individuals	584
Key concepts	586
Problem-solving exercise	586
Challenge yourself	588
<i>Index</i>	589

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

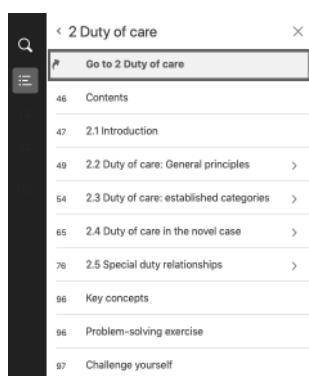
# USING YOUR VITALSOURCE EBOOK

Once you have registered your VitalSource access code (see the inside front cover for instructions), you will have access to the enhanced eBook via your VitalSource Bookshelf. The navigation instructions below provide a general overview of the main features used within the enhanced eBook.



## Icons

This icon is used throughout the textbook to indicate the presence of an interactive component in the eBook. A descriptor below indicates the type of content available.

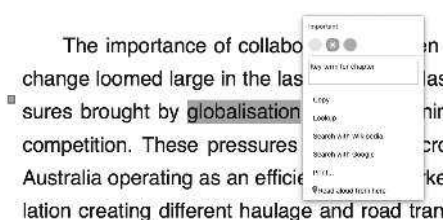


## Navigation and search

Move between pages and sections in multiple ways, including via the linked table of contents and the search tool.

## Highlight

Highlight text in your choice of colours with one click. Add notes to highlighted passages.



## Jurisdictional tables

Where available, the various state Acts, or specific sections, listed within the textbook's tables are linked to full versions of these texts.

## Case links

Where available, a link to the full case under discussion in the case boxes has been provided at the start of the box.

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

## Case questions

Respond to the questions and use the guided solutions to assess your responses. Note that the solution pop-ups can be moved about the page.

**Question**

**Q: Identify the 'neighbour principle' from *Donoghue v Stevenson*.**

The 'neighbour principle' from *Donoghue v Stevenson*

As stated by Lord Atkin:

acts or omissions which any moral code would censure cannot in a practical world be treated so as to give a right to every person injured by them to demand relief. In this way rules of law arise which limit the range of complainants and the extent of their remedy. The extent

Check answer

## Review questions

Respond to the review questions at the end of each major section and use the guided solutions to assess your responses. Note that the solution pop-ups can be moved about the page.

**Review questions**

**Q1: What categories of persons are, as a matter of precedent, owed a duty by other persons?**

The categories of persons owed a duty by other

Categories of established duty include: manufacturer-consumer (for physical injury), doctor-patient (for physical injury), school-student (for physical injury), employer-employee and solicitor-client.

**Q2: Explain the circumstances in which a case involving an established category of duty (eg, driver-passenger, doctor-patient) might be distinguished?**

A case that involved an established category of

This answer requires you to: (1) determine the effectiveness of your 'duty' issue in sufficiently circumscribing your answer; and (2) exercise the simple legal technique of distinguishing a precedent. The exact answer would include

## Videos

Informative video links appear at the end of some chapters to highlight and enhance the topics under discussion. Click the icon to access the content. Videos can be found at the end of Chapters 1, 9 and 11.

**What is the NDIS?**

Created by the National Disability Insurance Agency, this animated video introduces the National Disability Insurance Scheme (NDIS). The video will assist you to explore the implementation of a statutory scheme and its rollout throughout Australia.

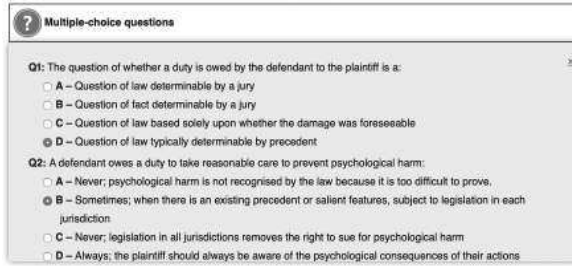
O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

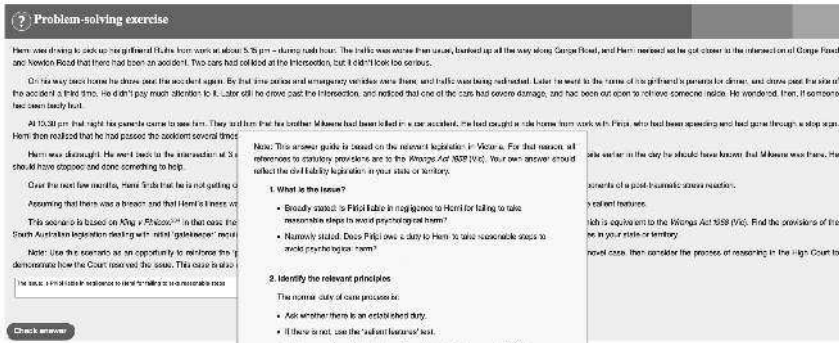
## Multiple-choice questions

Open the multiple-choice questions pop-up box, select your choice of correct answers and click 'Check answers' to assess your results. Note that this box can be moved about the page for you to read text while choosing your responses.



## Problem-solving exercises

Respond to the problem-solving exercise at the end of each chapter and use the guided solutions to assess your response. Note that the solution pop-ups can be moved about the page.



## Challenge yourself exercises

Respond to the challenge yourself exercise at the end of each chapter and use the guided solutions to assess your response. Note that the solution pop-ups can be moved about the page.



---

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

# GUIDE TO INSTRUCTOR RESOURCES

A variety of resources for instructors are provided on the companion website to this text, at [www.cambridge.org/academic/tortlaw](http://www.cambridge.org/academic/tortlaw). These materials are designed to help instructors prepare lectures and tutorials.

**Tutorial questions:** four questions with guided responses for each chapter for use in tutorials or as homework.

**Exercises:** two problem solving or essay-style questions with guided responses for each chapter for use in tutorials or as homework.

**PowerPoint® slides:** a set of slides for each chapter provides an overview of the chapter, featuring key concepts, major headings and all flowcharts and jurisdictional tables from the printed text.

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

# FIGURES AND TABLES

## Figures

<b>2.1</b> Duty of care	48
<b>3.1</b> Second element of a negligence claim	100
<b>4.1</b> Third element of a negligence claim	151
<b>4.2</b> Reasonable foreseeability test for elements of a negligence claim	181
<b>4.3</b> Effect of an intervening event or act on the chain of causation	184
<b>5.1</b> Negligence	194
<b>6.1</b> Trespass to the person	236
<b>7.1</b> Different forms of trespass actions	267
<b>8.1</b> Defences to trespass	318
<b>8.2</b> Remedies for trespass	319
<b>9.1</b> Unreasonable interference	377
<b>10.1</b> Vicarious liability and non-delegable duty of care	400
<b>10.2</b> Vicarious liability and employment	404
<b>10.3</b> Comparison of employer's liability for (a) negligent torts and (b) intentional torts	425
<b>11.1</b> Elements of defamation	437
<b>11.2</b> Statutory defences to defamation	457
<b>11.3</b> Common law defences to defamation	457
<b>11.4</b> Requirements for the statutory defence of qualified privilege	470
<b>12.1</b> Types of damages	491
<b>12.2</b> Three heads of damages	516
<b>13.1</b> Elements of breach of statutory duty	566
<b>13.2</b> Elements of misfeasance in public office	577

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

## Tables

<b>1.1</b>	Main differences between a tort and crime	5
<b>1.2</b>	Main differences between a tort and contract	6
<b>1.3</b>	Features of intentional torts	19
<b>1.4</b>	Overview of statutory time limitations	35
<b>2.1</b>	Decision table	50
<b>2.2</b>	Duty of care: general principles	66
<b>2.3</b>	Duty of care: mental harm	77
<b>2.4</b>	Duty of care: public authorities	90
<b>3.1</b>	Breach of duty: general principles	104
<b>3.2</b>	Breach of duty: special skills	113
<b>3.3</b>	Breach of duty: professionals	117
<b>3.4</b>	Breach of duty: public authorities	120
<b>3.5</b>	Breach of duty: public authorities – public policy defence	121
<b>3.6</b>	Breach of duty: general framework	123
<b>3.7</b>	Breach of duty: failure to warn	141
<b>3.8</b>	Breach of duty: evidential considerations	145
<b>4.1</b>	Overview of statutory provisions on the definition of ‘harm’	152
<b>4.2</b>	Overview of provisions relating to ‘wrongful birth’ claims	156
<b>4.3</b>	Overview of legislation on the <i>Lord Campbell’s Act</i> type of action	158
<b>4.4</b>	Overview of statutory provisions on ‘onus of proof’	162
<b>4.5</b>	Overview of statutory provisions on the ‘necessary condition’	166
<b>4.6</b>	Comparison of cases involving application of the ‘but for’ test	172
<b>4.7</b>	Overview of statutory provisions on the test determining what the person who suffered harm would have done if the negligent person had not been negligent	173
<b>4.8</b>	Overview of statutory provisions on admissibility of statement made by the injured person	173
<b>4.9</b>	Overview of statutory provisions on ‘exceptional cases’	176
<b>4.10</b>	Comparison of South Australian and Australian Capital Territory legislation	178
<b>4.11</b>	Overview of statutory provisions on the ‘scope of liability’	179
<b>5.1</b>	Contributory negligence: standard of care	196
<b>5.2</b>	Presumptions in contributory negligence	203
<b>5.3</b>	Workers compensation legislation	206
<b>5.4</b>	Contributory negligence: apportionment	208

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

<b>5.5</b>	Legislative provisions: apportionment of 100 per cent	210
<b>5.6</b>	Comparative provisions: obvious risks	215
<b>5.7</b>	Comparative provisions: inherent risks	216
<b>5.8</b>	Comparative provisions: illegal activity	219
<b>5.9</b>	Limitation of actions	220
<b>5.10</b>	Comparative provisions: good Samaritans and volunteers	222
<b>7.1</b>	Statutory provisions in relation to mineral rights in Australia	278
<b>7.2</b>	Comparison of trespass to goods, conversion and detinue	292
<b>9.1</b>	Physical damage and non-physical damage	368
<b>9.2</b>	The difference between authorising a nuisance and adopting or continuing one	381
<b>10.1</b>	Statutory grounds for the vicarious liability of partners	401
<b>10.2</b>	Comparison of cases as to performing an 'unauthorised act' versus performing an 'authorised act in an unauthorised manner'	414
<b>10.3</b>	Statutory grounds for vicarious liability of the Crown for acts committed by police officers	415
<b>10.4</b>	Overview of statutory provisions on the employer's right of indemnity	416
<b>10.5</b>	Overview of statutory provisions on apportionable claims	416
<b>10.6</b>	Comparison of the key principles of the doctrines of vicarious liability and non-delegable duty of care	432
<b>11.1</b>	Key features of the uniform defamation Acts	439
<b>11.2</b>	Australian defamation legislation	440
<b>12.1</b>	Structured settlements	514
<b>12.2</b>	Caps on awards	521
<b>12.3</b>	Limitations on damages	526
<b>12.4</b>	Provisions	530
<b>12.5</b>	Discount rates	532
<b>12.6</b>	Thresholds and caps	540
<b>12.7</b>	Claims by the estate of the deceased	543
<b>12.8</b>	Dependants' action	545
<b>12.9</b>	Definitions of dependants	547
<b>12.10</b>	Proportionate liability	559
<b>12.11</b>	Contribution provisions	560



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

## TABLE OF CASES

Entries in [blue](#) denote case boxes.

*2040 Logan Road Pty Ltd v Body Corporate for Paddington Mews CTS 39149* [2016] QSC 40, 276

*Acir v Frosster Pty Ltd* [2009] VSC 454, 569

*ACN 087 528 774 Pty Ltd v Chetcuti* [2008] VSCA 274, 249

*ACN 116 746 859 v Lunapas Pty Ltd* [2017] NSWSC 1583, 304, 355

*Actrol Parts Pty Ltd v Coppi (No 3)* [2015] VSC 758, 499

*Adam v Ward* [1917] AC 309, 467

*Adamson v Motor Vehicle Insurance Trust* (1957) 58 WALR 56, 110

*ADC v Prince Alfred College Inc* [2015] SASCFC 161, 430

*Adeels Palace Pty Ltd v Moubarak* (2009) 239 CLR 420, 23, 104, 166, 168

*Admiralski v Stebbens* [1960] Qd R 510, 541

*Ahrens Engineering Pty Ltd v Leroy Palmer & Associates* [2010] SASC 36, 561

*Airedale NHS Trust v Bland* [1993] AC 789, 334

*Aitken v Bedwell* (1827) 173 ER 1084, 251

*Aitken Agencies Ltd v Richardson* [1967] NZLR 65, 307

*Aktas v Westpac Banking Corporation Ltd* (2010) 241 CLR 570, 467–8

*Al Mulderis v Duncan (No 3)* [2017] NSWDC 726, 482

*Alcan Grove Pty Ltd v Zabic* (2015) 257 CLR 1, 221

*Alcoa Portland Aluminium Pty Ltd v Victorian WorkCover Authority* [2007] VSCA 210, 528

*Aldred's Case* (1611) 77 ER 816, 363

*Alexander v North Eastern Railway Co* (1865) 6 B & S 340, 458

*Allen v Chadwick* (2014) 120 SASR 350, 199

*Allen v Chadwick* (2015) 256 CLR 148, 106, 194, 205–6

*Allen v Kerr* [1995] Aust Torts Reports 81-354, 92

*Allianz v Australia Insurance Ltd v Kerr* [2012] NSWCA 13, 519

*Amaca Pty Ltd v Banton* (2007) 5 DDCR 314, 504

*Amaca Pty Ltd v Booth* (2011) 246 CLR 36, 22, 178

*Amaca Pty Ltd v Ellis* (2010) 240 CLR 111, 23, 177

*Amaca Pty Ltd v New South Wales* (2003) 199 ALR 596, 561

*Amaca Pty Ltd v Novek* [2009] NSWCA 50, 530

*America Online Inc v LCGM Inc*, 46 F Supp 2d 444 (ED Va, 1998), 293

*American Cynamid Co v Ethicon Ltd* [1975] AC 396, 555

*Amess v Hanlon* (1873) 4 AJR 90, 278

*Amory v Delamirie* (1722) 93 ER 664, 17

*Amstad v Brisbane City Council (No 1)* [1968] Qd R 334, 278

*Andary v Burford* [1994] Aust Torts Reports 81-302, 348

*Anderson Formrite Pty Ltd v Baulderstone Pty Ltd (No 7)* [2010] FCA 921, 306, 355

*Andrea v Selfridge & Co Ltd* [1938] Ch 1, 373, 374

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Annen v Rattee* [1985] 1 EGLR 136, 285  
*Anthanasopoulos v Moseley* (2001) 52 NSWLR 262, 512  
*Anwar v Mondello Farms Pty Ltd* [2015] SASCFC 109, 201  
*Applause Store Productions Ltd v Raphael* [2008] All ER 321, 477–8  
*Armidale Local Aboriginal Lands Council v Moran* [2018] NSWSC 1133, 268  
*Armory v Delamirie* (1722) 93 ER 664, 302, 304  
*Arthur Robinson (Grafton) Pty Ltd v Carter* (1968) 122 CLR 649, 515, 533  
*AS v Minister for Immigration and Border Protection* [2017] VSC 137, 424  
*Asic v Westel Co-operative Ltd* [1992] Aust Torts Reports 81-159, 520  
*Ashby v Tollhurst* [1937] 2 KB 242, 310–11  
*Ashland Dry Good Co v Wages*, 195 W 2d 312 (1946), 258  
*Associated Newspapers Group plc v Inset Media Ltd* (1989) IPR 345, 555  
*Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223, 573  
*Athabaska Airways v Sask Government Airways* (1957) 12 DLR (2d) 187, 354  
*Attalla v New South Wales* [2018] NSWDC 190, 347  
*Attorney-General v PYA Quarries Ltd* [1957] 1 All ER 894, 391, 392  
*Attorney-General's Reference (No 2 of 1983)* [1984] QB 456, 323  
*Australia & New Zealand Banking Group Ltd v Hunter BNZ Finance Ltd* [1991] 2 VR 407, 303  
*Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd* (2001) 208 CLR 199, 268, 270, 438, 484, 553, 555  
*Australian Broadcasting Corporation v O'Neill* (2006) 227 CLR 57, 554, 555  
*Australian Consolidated Press v Ettingshausen* (1993) (New South Wales Court of Appeal, Gleeson CJ, Kirby P and Clarke JA, 13 October 1993), 438  
*Australian Consolidated Press Ltd v Uren* (1966) 117 CLR 185, 502  
*Australian Consolidated Press Ltd v Uren* [1969] 1 AC 590, 502  
*Australian Guarantee Corporation Ltd v Commissioners of the State Bank of Victoria* [1989] VR 617, 344  
*Australian Safeway Stores Pty Ltd v Zaluzna* (1987) 162 CLR 479, 21, 59, 60, 87, 88  
*Axiak v Ingram* (2012) 82 NSWLR 36, 210–11  
*Ayers v Hanson, Stanley & Prince* (1912) 56 SJ 735, 380
- Backwell v AAA* [1997] 1 VR 182, 501, 504  
*Badenach v Calvert* (2016) 257 CLR 440, 56  
*Badraie v Commonwealth* (2005) 195 FLR 119, 16  
*Bahner v Marwest Hotel Co Ltd* (1969) 6 DLR (3d) 322, 251, 252, 256, 257  
*Bahner v Marwest Hotel Co Ltd* (1970) 12 DLR (3d) 646, 256, 257  
*Bain v Altoft* [1967] Qd R 32, 341  
*Baker v Bolton* (1808) 170 ER 1033, 158, 160, 543, 548  
*Baker v Police* [1997] 2 NZLR 467, 272  
*Baker v Willoughby* [1970] AC 467, 189  
*Baker's Creek Consolidated Gold Mining Co v Hack* (1894) 15 LR (NSW) Eq 207, 271  
*Bakker v Joppich & Bitumax Pty Ltd* (1980) 25 SASR 468, 561  
*Ball v Consolidated Rutile Ltd* [1991] 1 Qd R 524, 393–5  
*Balmain New Ferry Co Ltd v Robertson* (1906) 4 CLR 379, 255–7  
*Balven v Thurston* [2013] NSWSC 21, 246  
*Balven v Thurston* [2015] NSWSC 1103, 351  
*Bamford v Turnley* (1860) 122 ER 25, 363, 365  
*Bankstown City Council v Alamo Holdings Pty Ltd* (2005) 223 CLR 660, 385  
*Barbagallo v J & F Catelan Pty Ltd* [1986] 1 Qd R 245, 352  
*Barclay v Penberthy* (2012) 246 CLR 258, 543, 548

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Barfoot v Reynolds* (1733) 93 ER 963, 323  
*Barisic v Devenport* [1978] 2 NSWLR 111, 557  
*Barker v Adelaide City Corporation* [1900] SALR 29, 276  
*Barker v Furlong* [1891] 2 Ch 172, 297  
*Barker v The Queen* (1983) 153 CLR 338, 280, 283, 290  
*Barnett v Chelsea and Kensington Hospital Management Committee* [1969] 1 QB 428, 171  
*Barton v Armstrong* [1969] 2 NSWLR 451, 246  
*Basely v Clarkson* (1681) 83 ER 565, 273, 291, 343  
*Bateman v Shepherd* (1997) Aust Torts Reports 81-417, 450  
*Bathurst City Council v Saban* (1985) 2 NSWLR 704, 383  
*Bathurst City Council v Saban (No 2)* (1986) 58 LGRA 201, 382, 383  
*Battiato v Lagana* [1992] 2 Qd R 234, 237  
*Bauer Media Pty Ltd v Wilson (No 2)* [2018] VSCA 154, 474, 475  
*Baxter v Obacelo Pty Ltd* (2001) 205 CLR 635, 556, 558  
*Bazley v Curry* [1999] 2 SCR 534, 426  
*Bazley v Wesley Monash IVF Pty Ltd* [2010] QSC 118, 294  
*BBMB Finance (Hong Kong) Ltd v Eda Holdings Ltd* [1991] 2 All ER 129, 355  
*Beckingham v Port Jackson & Manly Steamship Co* (1957) SR (NSW) 403, 325  
*Beecham Group Ltd v Bristol Laboratories Pty Ltd* (1968) 118 CLR 618, 555  
*Belbin v Lower Murray Urban and Rural Water Corporation* [2012] VSC 535, 465  
*Belgrave Nominees Pty Ltd v Barlin-Scott Airconditioning (Australia) Pty Ltd* [1984] VR 947, 553  
*Bell v Thompson* (1934) SR (NSW) 431, 557  
*Bendal Pty Ltd v Mirvac Project Pty Ltd* (1991) 23 NSWLR 464, 274, 275, 351  
*Bendigo & Country Districts Trustees & Executors Co Ltd v Sandhurst & Northern District Trustees, Executors & Agency Co Ltd* (1909) 9 CLR 474, 555  
*Beneficial Finance Corporation Ltd v Alzden Pty Ltd* (Supreme Court of New South Wales, Equity Division, 10 May 1993), 495  
*Benic v New South Wales* [2010] NSWSC 1039, 127  
*Bennett v Dopke* [1973] VR 239, 320  
*Bennett v Minister for Community Welfare* (1992) 176 CLR 408, 22  
*Benning v Wong* (1969) 122 CLR 249, 385  
*Bernstein v Skyviews & General Ltd* [1978] 1 QB 479, 273, 274-5, 383  
*Berry v Humm & Co* [1915] 1 KB 627, 549  
*Besser v Kermode* [2011] NSWCA 174, 463  
*Beswicke v Alner* [1926] VLR 72, 348, 553  
*Big Top Hereford Pty Ltd v Thomas* [2006] NSWSC 1159, 304  
*Bilambil-Terranora Pty Ltd v Tweed Shire Council* [1980] 1 NSWLR 465, 293  
*Bird v Holbrook* (1828) 4 Bing 628, 325  
*Bird v Jones* (1845) 7 QB 742, 250, 254, 256  
*BIS Cleanaway v Tatale* [2007] NSWSC 378, 357  
*Bishopsgate Motor Finance Corporation Ltd v Transport Brakes Ltd* (1949) 1 All ER 37, 308  
*Bitumen & Oil Refineries (Australia) Ltd v Commissioner for Government Transport* (1955) 92 CLR 220, 561  
*Bjelke-Petersen v Warburton* [1987] 2 Qd R 465, 443, 451  
*Blacker v Waters* (1928) 28 SR (NSW) 406, 229  
*Blackney v Clark* [2013] NSWDC 144, 164  
*Blackwater v Plint* [2005] 3 SCR 3, 433  
*Blades v Higgs* (1861) 10 CB (NS) 713, 329, 330, 495  
*Blake v Burnard* (1840) 9 Car & P 626, 248  
*Blake v JR Perry Nominees Pty Ltd* [2010] VSC 272, 412-13

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Bliss v Hall* (1838) 132 ER 758, 370, 378, 387  
*Bloodworth v Cormack* [1949] NZLR 1058, 373  
*Blundell v Attorney-General (NZ)* [1968] NZLR 341, 251  
*Blundell v Musgrave* (1956) 96 CLR 73, 522, 524, 525  
*Blyth v Birmingham Waterworks Co* (1856) 11 Ex 781, 105  
*Board of Management of Royal Perth Hospital v Frost* (Western Australian Court of Appeal, Malcolm CJ, Rowland and Wallwork JJ, 26 February 1997), 154  
*Bocado SA v Star Energy UK Onshore Ltd* [2011] 1 AC 380, 275, 277  
*Bodley v Reynolds* (1846) 115 ER 1066, 357  
*Bolam v Friern Hospital Management Committee* [1957] 1 WLR 582, 37, 115  
*Bolton v Stone* [1951] 1 All ER 1078, 129–30  
*Bolwell Fibreglass Pty Ltd v Foley* [1984] VR 97, 311  
*Bond v Kelly* (1873) 4 AJR 153, 282  
*Bonnici v Ku-ring-gai Municipal Council* [2001] NSWSC 1124, 365–6, 388  
*Bonnington Castings v Wardlaw* [1956] AC 613, 177  
*Booksan Pty Ltd v Wehbe* [2006] NSWCA 3, 575  
*Boreham v New South Wales* (unreported, 2001), 29  
*Boughey v The Queen* (1986) 161 CLR 10, 239  
*Bourhill v Young* [1943] AC 92, 78  
*Bower v Peate* (1876) 1 QBD 321, 380  
*Bowmakers Ltd v Barnet Instruments Ltd* [1945] 1 KB 65, 302  
*Boyd v Mirror Newspapers Ltd* [1980] 2 NSWLR 449, 443, 445–6  
*Bradley v Schatzel* [1911] St R Qd 206, 248–9  
*Bradshaw v Griffiths* [2016] QCA 20, 276  
*Brandeis Goldschmidt & Co v Western Transport Ltd* [1981] QB 864, 355, 357  
*Break Fast Investments Pty Ltd v PCH Melbourne Pty Ltd* [2007] VSCA 311, 276, 290, 352, 554  
*Breen v Williams* (1996) 186 CLR 71, 76  
*Bresatz v Przibilla* (1962) 108 CLR 541, 533, 541  
*Bridges v Hawkesworth* (1851) 21 LJQB 75, 305  
*Brightwater Care Group v Rossiter* [2009] WASC 229, 334  
*Briginshaw v Briginshaw* (1938) 60 CLR 336, 162, 583  
*Brinsmead v Harrison* (1871) LR 6 CP 584, 557, 558  
*Briscioni v Piscioneri (No 4)* [2016] ACTCA 32, 443  
*British Electric Railway Co Ltd v Gentile* [1914] AC 1034, 546  
*British Transport Commission v Gourley* [1956] AC 185, 519  
*Broadway Pty Ltd v Lewis* [2012] WASC 373, 353  
*Brodie v Singleton Shire Council* (2001) 206 CLR 512, 393, 395, 567  
*Broken Hill Proprietary Co Ltd v Fisher* [1984] 38 SASR 50, 501  
*Brookfield Multiplex Ltd v Owners Corporation Strata Plan 61288* (2014) 254 CLR 185, 71  
*Brown v United States*, 256 US 335 (1921), 321  
*Brown v Wellington* [2001] ACTSC 100, 529  
*Brunsdon v Humphrey* (1884) 14 QBD 141, 546  
*Bryan v Maloney* (1995) 182 CLR 609, 68, 70, 74  
*Bugge v Brown* (1919) 26 CLR 110, 411  
*Bulli Coal Mining Co v Osborne* [1899] AC 351, 273  
*Bulsey v Queensland* [2015] QCA 187, 261  
*Bunnings Group Ltd v CHEP Australia Ltd* [2011] NSWCA 342, 301, 310, 353, 496, 500, 513  
*Bunt v Tilley* [2007] 1 WLR 1243, 478

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Burford v Allen* (1993) 60 SASR 428, 522  
*Burgess v Florence Nightingale Hospital for Gentlemen* [1955] 1 QB 349, 548  
*Burke v Butterfield & Lewis Ltd* (1926) 38 CLR 354, 575  
*Burnett v Randwick City Council* [2006] NSWCA 196, 299  
*Burnie Port Authority v General Jones Pty Ltd* (1994) 179 CLR 520, 53, 73, 93, 395, 418, 421–2, 432  
*Burton v Davies* [1953] St R Qd 26, 257  
*Burton v Hughes* (1824) 2 Bing 173, 306  
*Burton v Spragg* [2007] WASC 247, 277  
*Burwood Land Co Ltd v Knox* (1895) 21 VLR 381, 271  
*Butler v Egg & Pulp Marketing Board* (1966) 114 CLR 185, 355  
*Byrne v Australian Airlines Ltd* (1995) 185 CLR 410, 565, 569  
*Byrne v Boadle* (1863) 159 ER 299, 163  
*Byrne v Deane* [1937] 1 KB 818, 454  
*Byrne v Hoare* [1965] Qd R 135, 304, 305  
*Byrne v Kinematograph Renters Society Ltd* [1958] 1 WLR 762, 283
- Cairns v Modi* [2012] EWCA 1382, 472, 481  
*CAL No 14 Pty Ltd v Motor Accidents Insurance Board* (2009) 239 CLR 390, 23, 49, 76, 112  
*Caldwell v Maguire* [2002] PIQR 6, 212  
*Calin v Greater Union Organisation Pty Ltd* (1991) 13 CLR 33, 93  
*Caltex Oil (Australia) Pty Ltd v The Dredge Willemstad* (1976) 136 CLR 529, 73, 86  
*Caltex Oil (Australia) Pty Ltd v XL Petroleum (NSW) Pty Ltd* [1982] 2 NSWLR 852, 354  
*Caltex Refineries (Qld) Pty Ltd v Stavara* (2009) 75 NSWLR 649, 21, 66–7, 72, 73, 74, 75  
*Calveley v Chief Constable of Merseyside Police* [1989] AC 1228, 153, 579  
*Calvert v Badenach* [2015] TASFC 8, 56  
*Cambridge Water Co v Eastern Counties Leather plc* [1994] 2 AC 264, 389  
*Campbell v Li-Pina* (2007) MVR 279, 548  
*Campbell v MGN Ltd* [2004] UKHL 22, 438  
*Campbell v Paddington Corporation* [1911] 1 KB 869, 382  
*Campbell v Samuels* (1980) 23 SASR 389, 240  
*Campbell v The Queen* (1981) WAR 286, 175  
*Canterbury Bankstown Rugby League Football Club Ltd v Rogers* [1993] Aust Torts Reports 81-246, 241, 335, 503, 505–6  
*Capital Finance Co Ltd v Bray* [1964] 1 All ER 603, 312  
*Cardile v LED Builders Pty Ltd* (1999) 198 CLR 380, 553  
*Carey v Lake Macquarie City Council* [2007] NSWCA 4, 212, 213, 216, 217–18  
*Carmarthenshire City Council v Lewis* [1955] AC 549, 92  
*Carolan v Fairfax Media Publications Pty Ltd* [2016] NSWSC 1091, 474  
*Carolan v New South Wales* [2014] NSWSC 1566, 312  
*Carrier v Bonham* [2002] 1 Qd R 474, 110–11  
*Carroll v Purcell* (1961) 107 CLR 73, 551  
*Carson v John Fairfax & Sons Ltd* (1993) 178 CLR 44, 437, 474  
*Carter v Thomas* [1893] 1 QB 673, 324  
*Carter v Walker* [2010] VSCA 340, 238, 240, 242, 320  
*Cartwright v McLane & Long Pty Ltd* (1979) 143 CLR 549, 393  
*Casey v Zurgalo* [1968] ALR 134, 541  
*Casley-Smith v FS Evans & Sons Pty Ltd (No 5)* (1988) 67 LGRA 108, 379  
*Cassell & Co Ltd v Broome* [1972] AC 1027, 346



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Cassidy v Ministry of Health* [1951] 2 KB 343, 419  
*Castle v St Augustine's Links Ltd* (1922) 38 TLR 615, 393  
*Caswell v Powell Duffryn Associated Collieries Ltd* [1940] AC 152, 207  
*Cattanach v Melchior* (2003) 215 CLR 1, 6, 152, 155–6  
*Cattle v Stockton Waterworks Co* (1875) LR 10 QB 453, 82  
*Central Highlands Regional Council v Geju Pty Ltd* [2018] 3 Qd R 550, 69, 70, 71  
*Central Queensland Speleological Society Inc v Central Queensland Cement (No 1)* [1989] 2 Qd R 512, 546  
*Chairman, National Crime Authority v Flack* (1998) 86 FCR 16, 17  
*Champagne View Pty Ltd v Shearwater Resort Management Pty Ltd* [2000] VSC 214, 388  
*Channel Seven Adelaide Pty Ltd v Manock* (2007) 232 CLR 245, 471  
*Chapman v Hearse* (1961) 106 CLR 112, 20, 125, 184  
*Chappel v Hart* (1998) 195 CLR 232, 5–6, 161, 172  
*Chatterton v Gerson* [1981] QB 432, 333  
*CHEP Australia Ltd v Bunnings Group Ltd* [2010] NSWSC 301, 305, 311  
*Chester v Municipality of Waverley* (1939) 62 CLR 1, 78–9  
*Chic Fashions (West Wales) Ltd v Jones* (1968) 2 QB 299, 289  
*Chief Commissioner of Railways and Tramways (NSW) v Boylson* (1915) 19 CLR 505, 548  
*Children, Youth & Women's Health Service Inc v YJL* (2010) 107 SASR 343, 339  
*Christie v Davey* [1893] 1 Ch 316, 375  
*Christopherson v Bare* (1848) 11 QB 473, 240  
*Chubb Cash Ltd v John Crilley & Son* [1983] 2 All ER 294, 306  
*Cinnamond v British Airports Authority* (1980) 1 WLR 582, 289  
*Circuit Finance Pty Ltd v Goodwood Road Pty Ltd* [2006] VSC 399, 357  
*Citibank Ltd v Papandony* [2002] NSWCA 375, 303  
*Citicorp Australia Ltd v BS Stillwell Ford Pty Ltd* (1979) 21 SASR 142, 303, 308  
*City of London Corporation v Appleyard* [1963] 1 WLR 982, 304  
*City Motors (1933) Pty Ltd v Southern Aerial Super Service Pty Ltd* (1961) 106 CLR 477, 302, 312  
*City of Richmond v Scantelbury* [1991] 2 VR 38, 496  
*Claim of Valerie Linow* (Victims of Crime Compensation Tribunal, New South Wales, File Reference 73123, 15 February 2002), 30  
*Clambake Pty Ltd v Tipperary Projects Pty Ltd (No 3)* [2009] WASC 52, 272  
*Clarence City Council v Howlin* [2016] TASSC 61, 276  
*Clayton v Le Roy* [1911] 2 KB 1031, 310  
*Clegg v Dearden* (1848) 12 QB 576, 290  
*Clissold v Cratchley* [1910] 2 KB 244, 300  
*Cobbett v Grey* (1849) 4 Ex 729 (CA) 744, 248  
*Coco v The Queen* (1994) 179 CLR 427, 15, 279, 285–6  
*Coffey v Queensland* [2012] QSC 186, 237  
*Cohen v City of Perth* [2000] WASC 306, 369, 375  
*Cole v South Tweed Heads Rugby League Football Club Ltd* (2004) 217 CLR 469, 150  
*Cole v Turner* (1704) 90 ER 958, 239, 242  
*Coles Group Property Developments Ltd v Stankovic* [2016] NSWSC 852, 371  
*Coles Myer Ltd v Webster* [2009] NSWCA 299, 250  
*Coles Supermarkets Australia Pty Ltd v Bridge* [2018] NSWCA 183, 194  
*Collard v Western Australia (No 4)* [2013] WASC 455, 30  
*Collier-Garland (Properties) Pty Ltd v O'Hair* (1963) 63 SR (NSW) 500, 554  
*Collins v Wilcock* (1984) 3 All ER 374, 17, 236, 239, 240, 241, 242

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Colonial Mutual Life Assurance Society Ltd v Producers & Citizens Co-operative Insurance Co of Australia Ltd* (1931) 46 CLR 41, 403
- Colwell v St Pancras Borough Council* [1904] 1 Ch 707, 378
- Commissioner of Railways v Ruprecht* (1979) 142 CLR 563, 207
- Commissioner of Taxation v Futuris Corporation Ltd* (2008) 237 CLR 146, 576
- Commonwealth v Evans Deakin Industries Ltd* (1986) 161 CLR 254, 89
- Commonwealth v Fernando* (2012) 200 FCR 1, 583, 585
- Commonwealth v Introvigne* (1982) 150 CLR 258, 55, 62–3, 93, 95, 421, 428
- Commonwealth v McLean* (1996) 41 NSWLR 389, 183
- Complete Scaffold Services Pty Ltd v Adelaide Brighton Cement Ltd* [2001] SASC 199, 422
- CompuServe Inc v Cyber Promotions Inc*, 962 F Supp 1015 (SD Oh, 1997), 293
- Connolly v Sunday Times Publishing Co Ltd* (1908) 7 CLR 263, 499
- Consolidated Broken Hill Ltd v Edwards* [2005] NSWCA 380, 195
- Consolidated Co v Curtis & Son* [1892] 1 QB 495, 344
- Cook v Cook* (1986) 162 CLR 376, 53, 113, 198, 219
- Cook v Rodgers* (1946) 46 SR (NSW) 229, 554
- Cooper v Neubert* [2017] TASSC 33, 230, 236
- Cope v Sharpe (No 2)* [1912] 1 KB 496, 324, 325, 326, 327
- Corbett v Pallas* [1995] Aust Torts Reports 81-329, 367, 496
- Cornes v The Ten Group Pty Ltd* [2011] SASC 104, 453
- Cornes v The Ten Group Pty Ltd* [2012] SASCFC 99, 442, 443
- Corporation of Hastings v Ivall* (1874) LR 19 Eq Cas 558, 270
- Corporation of London v Appleyard* [1963] 2 All ER 834, 277
- Corr v IBC Vehicles Ltd* [2008] 1 AC 884, 109
- Corvisy v Corvisy* [1982] 2 NSWLR 557, 264, 348, 554
- Cosenza v Origin Energy Ltd* [2017] SASC 145, 326
- Costello v Chief Constable of Derbyshire Constabulary* [2001] EWCA Civ 381, 295, 296
- Covell v Laming* (1808) 170 ER 1034, 300
- Coventry v Lawrence* [2014] UKSC 13, 371, 372, 384, 388
- Cowell v Corrective Services Commission (NSW)* (1988) 13 NSWLR 714, 250, 263, 343
- Cowell v Rosehill Racecourse Co Ltd* (1937) 56 CLR 605, 278, 284, 332, 340, 492
- Cox v Bath* (1893) 14 LR (NSW) 263, 495
- Cox v Ministry of Justice (UK)* [2016] SC 10, 427
- Cox v Roberts* (2007) 71 NSWLR 225, 167–8
- Craftsman Homes Australia Pty Ltd v TCN Channel Nine Pty Ltd* [2006] NSWSC 519, 351
- Craig v Marsh* (1935) 35 SR (NSW) 323, 356
- Cresswell v Sirl* [1948] 1 KB 241, 325
- Crimmins v Stevedoring Industry Finance Committee* (1999) 200 CLR 1, 89
- Cripps v Vakras* [2014] VSC 279, 460
- Croucher v Cachia* [2016] NSWCA 132, 238, 321
- Crowther v Australian Guarantee Corporation Ltd* [1995] Aust Torts Reports 80-709, 312
- Cruickshank v Radojicic* [2015] NSWDC 312, 195
- CSR Ltd v Eddy* (2005) 226 CLR 1, 515–16, 517, 518, 529–30
- Cubillo v Commonwealth* (2000) 103 FCR 1, 26, 27, 29, 252
- Cullen v Trappell* (1980) 146 CLR 1, 519, 537
- Curmi v McLennan* [1994] 1 VR 513, 92
- Cush v Dillon* (2011) 243 CLR 298, 468–9
- Cutter v McPhail* [1962] 2 QB 292, 558
- Czatyрко v Edith Cowan University* (2005) 214 ALR 349, 423

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- D & F Estates Ltd v Church Commissioners for England* [1989] AC 177, 417  
*Dairy Farmers Co-operative Ltd v Azar* (1990) 170 CLR 293, 569  
*Daley v Martin (No 1)* [1982] Qd R 23, 264, 348  
*Dalton v Angus & Co* (1881) 6 App Cas 740, 422  
*D'Angola v Rio Pioneer Gravel Co Pty Ltd* [1979] 1 NSWLR 495, 556  
*Dansey v Richardson* (1854) 3 EL & B 144, 405  
*Darbishire v Warran* [1963] 1 WLR 106, 350  
*Darby v Director of Public Prosecutions (NSW)* (2014) 61 NSWLR 558, 238  
*Darcy v New South Wales* [2011] NSWCA 413, 30  
*Darling Island Stevedoring and Lighthouse Co Ltd v Long* (1957) 97 CLR 36, 404, 405, 571  
*Darroch v Dennis* [1952] VLR 282, 550  
*David Syme & Co Ltd v Hore-Lacey* [2000] VSCA 24, 460  
*Davidson v Chief Constable of North Wales* [1994] 2 All ER 597, 251  
*Davidson v JS Gilbert Fabrications Pty Ltd* [1986] 1 Qd R 1, 354, 507  
*Davidson v Walker* (1901) 1 SR (NSW) 196 (FC), 89  
*Davie v New Merton Board Mills Ltd* [1959] AC 604, 417  
*Davies v Adelaide Chemical & Fertiliser Co Ltd* (1946) 74 CLR 541, 206–7  
*Davies v Bennison* (1927) 22 Tas LR 52, 274  
*Davies v Taylor* [1974] AC 207, 549  
*Day v Bank of New South Wales* (1978) 18 SASR 163, 344  
*De Freville* (1927) 96 LJKB 1056, 253  
*De Reus v Gray* (2003) 9 VR 432, 576–7  
*De Sales v Ingrassia* (2002) 212 CLR 338, 11, 159, 160, 548, 550, 551  
*Deal v Father Pius Koddakathanath* (2016) 258 CLR 281, 572  
*Dean v Phung* [2012] NSWCA 223, 337, 504  
*Deatons Pty Ltd v Flew* (1949) 79 CLR 370, 413–14  
*Delaney v TP Smith Ltd* [1946] KB 393, 270–1  
*Delta Corporation v Davies* [2002] WASCA 125, 501  
*Dewar v Ollier* [2018] WASC 212, 194  
*Dewey v White* (1827) 173 ER 1079, 325  
*Di Battista v Molton* [1971] VR 656, 548  
*Di Napoli v New Beach Apartments Pty Ltd* [2004] NSWSC 52, 277  
*Diamond v Simpson (No 1)* [2003] NSWCA 67, 523  
*Dickenson v Waters Ltd* (1931) 31 SR (NSW) 593, 251  
*Dingle v Associated Newspapers* [1961] 2 QB 162, 560  
*Director of Public Prosecutions (Cth) v Hart* [2005] 2 Qd R 246, 305  
*Dobler v Halverson* (2007) 70 NSWLR 151, 118  
*Dodd Properties (Kent) Ltd v Canterbury City Council* [1980] 1 WLR 433, 350  
*Dodge v Snell* [2011] TASSC 19, 212  
*Dodwell v Burford* (1669) 86 ER 703, 237  
*Doe v Bennett* [2004] 1 SCR 436, 426  
*Dominion Natural Gas Co Ltd v Collins* [1909] AC 640, 73  
*Don Brass Foundry Pty Ltd v Stead* (1948) 48 SR (NSW) 482, 369  
*Donald v Suckling* (1866) LR 1 QB 585, 302  
*Donaldson v Broomby* (1982) 60 FLR 124, 250  
*Donnelly v Joyce* [1974] QB 454, 522  
*Donoghue v Stevenson* [1932] AC 562, 19–20, 21, 48, 49–50, 51, 52, 54, 57, 59, 65, 72, 73, 180  
*Doodeward v Spence* (1908) 6 CLR 406, 294  
*Dorset Yacht Co Ltd v Home Office* [1970] AC 1004, 91, 92, 161



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Doubleday v Kelly* [2005] NSWCA 151, 197  
*Doughty v Cassidy* [2005] 1 Qd R 462, 521  
*Dovuro Pty Ltd v Wilkins* (2003) 215 CLR 317, 137  
*Dow Jones & Co Inc v Gutnick* (2002) 210 CLR 575, 454–5  
*Downham v Bellette* (1986) Aust Torts Reports 80-038, 343  
*Dryden v Orr* (1928) 28 SR (NSW) 216, 354  
*Duffy v Google Inc* [2015] SASC 170, 454  
*Duke of Buccleuch v Cowan* (1866) 5 Macpherson 214, 177  
*Dulieu v White & Sons* [1901] 2 KB 669, 77, 78, 183  
*Duma v Mader International Pty Ltd* [2013] VSCA 23, 574  
*Dumont v Miller* (1873) 4 AJR 152, 19, 268  
*Dunnage v Randall* [2016] QB 639, 109  
*Dunwich Corporation v Sterry* (1831) 109 ER 995, 297  
*Dymocks Book Arcade Ltd v McCarthy* [1966] 2 NSWLR 411, 293  
*Dynamic Flooring Pty Ltd v Carter* [2000] NSWSC 992, 369  
*Dynamic Flooring Pty Ltd v Carter* [2001] NSWCA 396, 369
- E v Australian Red Cross Society* (1991) 31 FCR 299, 136  
*E Hulton & Co v Jones* [1910] AC 20, 451–2  
*Easther v Amaca Pty Ltd* [2001] WASC 328, 529  
*Eaves v Donnelly* [2011] QDC 207, 347  
*EB v Order of the Oblates of Mary Immaculate in the Province of British Columbia* [2005] 3 SCR 45, 426, 431  
*eBay Inc v Bidder's Edge*, 100 F Supp 2d 1058 (ND Cal, 2000), 293  
*Edwards v Blomeley* [2002] NSWSC 460, 157  
*Edwards v Sims*, 24 SW 2d 619 (1929), 273, 277  
*Egan v State Transport Authority* (1982) 31 SASR 481, 343, 356, 357  
*Elias v Pasmore* [1934] 2 KB 164, 289  
*Elliot v Barnes* (1951) 51 SR (NSW) 179, 230  
*Ellis v Wallsend District Hospital* (1989) 17 NSWLR 553, 93, 420–1  
*Elwes v Brigg Gas Co* (1886) 33 Ch D 562, 273, 277, 304  
*Emanuele v Hedley* (1998) 179 FCR 290, 579, 580  
*Emcorp Pty Ltd v Australian Broadcasting Corporation* [1988] 2 Qd R 169, 268  
*Emmett v Eastern Dispensary and Casualty Hospital*, 396 F 2d 931 (DC Cir, 1967), 160  
*Enever v The King* (1906) 3 CLR 969, 414  
*England v Cowley* (1873) LR 8 Exch 126, 305  
*Entick v Carrington* (1765) 95 ER 807, 268, 282  
*Erven Warnink Bv v J Townsend & Sons (Hull) Ltd* [1979] AC 731, 554  
*Esanda Finance Corporation Ltd v Peat Marwick Hungerfords* (1997) 188 CLR 241, 70–1, 84–6  
*Esso Petroleum Co Ltd v Southport Corporation* [1956] AC 218, 272  
*Ettingshausen v Australian Consolidated Press* (1991) 23 NSWLR 443, 448–9  
*Evans v Balog* [1976] 1 NSWLR 36, 350, 508  
*Evans v Finn* (1904) 4 SR (NSW) 297, 363, 368  
*Everitt v Martin* [1953] NZLR 298, 296  
*Exchange Hotel Ltd v Murphy* [1947] SASR 112, 229, 242
- F v R* (1983) 33 SASR 189, 138–9  
*Fagan v Commissioner of Metropolitan Police* [1969] 1 QB 439, 237, 243  
*Fairbairn v Miller* (1918) VLR 615, 313

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Fairfax Digital Australia & New Zealand v Kazal* [2018] NSWCA 77, 463  
*Fairfax Media Productions Pty Ltd v Kermode* [2011] NSWCA 174, 460, 462  
*Farah Constructions Pty Ltd v Say-Dee Pty Ltd* (2007) 230 CLR 89, 244  
*Farrington v Thomson* [1959] VR 286, 278  
*Feiner v Domachuk* (1994) 35 NSWLR 485, 370  
*Fennell v Robson Excavations Pty Ltd* (1977) 2 NSWLR 486, 379  
*Ferguson v Eakin* (New South Wales Court of Appeal, 27 August 1997), 293  
*Ferguson v Queensland* [2007] QSC 322, 259  
*Fernance v Simpson* [2003] NSWSC 121, 384  
*Fernando v Commonwealth* (2014) 231 FCR 251, 500  
*Fetter v Beal* (1701) 91 ER 1122, 513  
*Ffrench v Sestili* [2007] SASC 241, 412, 413  
*Finch v Roberts* [2004] NSWSC 39, 167  
*Finesky Holdings Pty Ltd v Minister for Transport (WA)* [2002] WASCA 206, 348, 349  
*Finlay Stonemasonry Pty Ltd v JD & Sons Nominees Pty Ltd* [2011] NTSC 37, 275  
*Fitch v Cates* (1982) 150 CLR 482, 521  
*Fitz-Alan v Felton* [2004] NSWSC 11, 357  
*Fitzgerald v Firbank* [1897] 2 Ch 96, 272  
*Fkias v Fkias* [2010] NSWCA 116, 521  
*Fletcher v Rylands* (1866) LR 1 Ex 265, 421  
*Flewster v Royle* (1808) 170 ER 924, 251  
*Flowfill Packaging Machines Pty Ltd v Fytore Pty Ltd* [1993] Aust Torts Reports 81-244, 310, 312, 355, 356  
*Flynn v Flynn* [2011] WADC 141, 304  
*Fontaine v British Columbia (Official Administrator)* [1998] 1 SCR 424, 163  
*Fontin v Katapodis* (1962) 108 CLR 177, 244, 320, 321, 322, 343, 344, 347, 493-4  
*Forde v Skinner* (1830) 4 C & P 239, 237  
*Fouldes v Willoughby* (1841) 151 ER 1153, 300, 306, 307  
*Fowler v Lanning* [1959] 1 QB 426, 229, 234-5  
*Fraser v Booth* (1949) 50 SR (NSW) 113, 376  
*Freeman v Home Office (No 2)* [1984] QB 524, 240, 332  
*Freudhofer v Poledano* [1972] VR 287, 541  
*Froom v Butcher* [1976] 1 QB 296, 194  
*Furness v Adrium Industries Pty Ltd* [1996] 1 VR 668, 355
- Gaba Formwork Contractors Pty Ltd v Turner Corporation Ltd* (1991) 32 NSWLR 175, 357  
*Gagner Pty Ltd v Canturi Corporation Pty Ltd* (2009) 262 ALR 691, 350, 508-10, 511  
*Gala v Preston* (1991) 172 CLR 243, 53, 198, 218  
*Gales Holdings Pty Ltd v Tweed Shire Council* [2013] NSWCA 382, 389  
*Gallagher v McClintock* [2014] QCA 224, 283, 284  
*Gallagher Panel Beating v Palmer* [2007] NSWSC 627, 357  
*Gammell v Wilson* [1982] AC 27, 521  
*Garratt v Dailey*, 279 P 2d 1091 (Wash, 1955), 237  
*Gartner v Kidman* (1962) 108 CLR 12, 367  
*Gavalas v Singh* [2001] VSCA 23, 154  
*Gem v New South Wales* [2017] NSWDC 108, 136  
*General & Finance Facilities Ltd v Cooks Cars (Romford) Ltd* [1963] 2 All ER 314, 356  
*Georgeski v Owners Corporation SP 49833* [2004] NSWSC 1096, 271  
*Gett v Tabet* [2009] NSWCA 76, 154

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Geyer v Downs* (1977) 138 CLR 91, 61, 62  
*Gibson v Allard* [2017] VSC 788, 269  
*Giller v Procopets* (2008) 24 VR 1, 486–7  
*Gillick v West Norfolk and Wisbech Area Health Authority* [1986] AC 112, 338, 340  
*Gillingham Borough Council v Medway (Chatham) Dock Co Ltd* [1993] QB 343, 370, 385  
*Giunelli v Johnston* (1991) Aust Torts Reports 81-085, 242, 336  
*Glasgow Corporation v Muir* [1943] 2 All ER 44, 105  
*Glass v Hollander* (1935) 35 SR (NSW) 304, 310  
*Glenmont Investments Pty Ltd v O'Loughlin* [2000] SASC 429, 512  
*Golden Eagle International Trading Pty Ltd v Zhang* (2007) 229 CLR 498, 533  
*Goldie v Commonwealth* (2002) 117 FCR 566, 250  
*Goldman v Hargrave* (1963) 110 CLR 40, 380–1  
*Goldman v Hargrave* (1966) 115 CLR 458, 381  
*Goldman v Hargrave* [1967] 1 AC 645, 375  
*Gollan v Nugent* (1988) 166 CLR 18, 302, 312  
*Goode v England* (2017) 96 NSWLR 503, 212  
*Google Inc v Duffy* [2017] SASCFC 130, 454  
*Google Inc v Trkulja* (2016) 342 ALR 504, 479–80  
*Gordon v Harper* (1796) 101 ER 828, 297, 303  
*Goss v Nicholas* [1960] Tas SR 133, 323–4  
*Government Insurance Office (NSW) v Mackie* [1990] Aust Torts Reports 81-053, 522  
*Govic v Boral Australian Gypsum Pty Ltd* (2015) 47 VR 430, 58  
*Graham v Baker* (1961) 106 CLR 340, 518, 521, 538  
*Graham v KD Morris & Sons Pty Ltd* [1974] Qd R 1, 276, 351, 554  
*Graham Barclay Oysters Pty Ltd v Ryan* (2002) 211 CLR 540, 19, 89–90, 133–4  
*Grant v YYH Holdings Pty Ltd* [2012] NSWCA 360, 306, 311  
*Grantham Homes Pty Ltd v Australia & New Zealand Banking Group Ltd* (1979) 37 FLR 191, 344  
*Gray v Motor Accident Commission* (1998) 196 CLR 1, 347, 348, 503, 504–5  
*Gregory v Piper* (1829) 109 ER 220, 273  
*Grehan v Kann* [1948] QWN 40, 243, 343  
*Greig v Greig* [1966] VR 376, 350  
*Greyvensteyn v Hattingh* [1911] AC 355, 324  
*Grice v Queensland* [2005] QCA 272, 528  
*Griffiths v Kerkemeyer* (1977) 139 CLR 161, 497, 512, 524–5, 549  
*Grimwade v Victoria* (1997) 90 Crim R 526, 581  
*Grosse v Purvis* [2003] QDC 151, 484–5  
*Groves v Lord Wimborne* [1898] 2 QB 402, 569  
*Guimelli v Johnston* [1991] Aust Torts Reports 81-085, 335  
*Gunnerson v Henwood* [2011] VSC 440, 175  
*Gutman v McFall* [2004] NSWCA 378, 402  
*Gwinnett v Day* [2012] SASC 43, 304
- H v R* [1996] 1 NZLR 299, 332  
*Haber v Walker* [1963] VR 339, 159–60, 186–7, 546–7  
*Hackshaw v Shaw* (1984) 155 CLR 614, 230, 325, 492  
*Haddon v Lynch* [1911] VLR 5, 372  
*Haddow v Duke Co NL* (1892) 18 VLR 155, 293  
*Hall v Cramer* [2003] ACTSC 112, 538  
*Hall v Fonceca* [1983] WAR 309, 249

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Halliday v Holgate* (1868) LR 3 Exch 299, 302  
*Halliday v Nevill* (1984) 155 CLR 1, 268, 279, 280, 281–2, 283, 335, 340  
*Halsey v Esso Petroleum Co Ltd* [1961] 1 WLR 683, 367  
*Hamcor Pty Ltd v Queensland* [2014] QSC 224, 573  
*Hamilton v Nuroof (WA) Pty Ltd* (1956) 96 CLR 18, 59  
*Hampton v BHP Billiton Minerals Pty Ltd (No 2)* [2012] WASC 285, 353  
*Haniotis v Dimitriou* [1983] 1 VR 498, 331  
*Hannaforford v Stewart (No 2)* [2011] NSWSC 722, 357  
*Hannah v Peel* [1945] 1 KB 50, 304  
*Hans Pearson v Queensland* (Statement of Claim, File No QUD714/201), 32  
*Hansen v Gloucester Developments Pty Ltd* [1992] 1 Qd R 14, 350, 508  
*Harbutt's Plasticine Ltd v Wayne Tank & Pump Co Ltd* [1970] 1 QB 447, 350  
*Hardy v Cotter* (1881) 7 VLR (E) 151, 293  
*Hargrave v Goldman* (1963) 110 CLR 40, 362, 364, 379  
*Harnett v Bond* [1925] AC 669, 261  
*Harris v Commercial Minerals Ltd* (1986) CLR 1, 537  
*Harris v James* (1876) 45 LJ QB 545, 379  
*Harrison v Melham* [2008] NSWCA 67, 528  
*Harrison v Southwark Water Co* [1891] 2 Ch 409, 374  
*Harriton v Stephens* [2004] NSWCA 93, 498  
*Harriton v Stephens* (2006) 226 CLR 52, 6, 54, 61, 69, 152, 157  
*Hart v Herron* [1984] Aust Torts Reports 80-201, 261  
*Hartley v Moxham* (1842) 114 ER 675, 300  
*Haskins v Commonwealth* (2011) 244 CLR 22, 263  
*Hawkins v Clayton* (1988) 164 CLR 539, 52  
*Haynes v Harwood* [1935] 1 KB 146, 63, 161  
*Haystead v Chief Constable of Derbyshire* (2000) 3 All ER 890, 238  
*HB Holmes Pty Ltd v Beers* [1986] 2 Qd R 739, 351  
*Healing (Sales) Pty Ltd v Inglis Electrix Pty Ltd* (1968) 121 CLR 584, 283–4, 354, 356, 357  
*Heaven v Pender* (1883) 11 QBD 503, 19, 57  
*Hedley Byrne & Co Ltd v Heller & Partners Ltd* [1964] AC 465, 82–3, 86  
*Hegarty v Shine* (1878) 4 LR Ir 288, 337  
*Heil v Rankin* [2001] QB 272, 541  
*Helson v McKenzies (Cuba Street) Ltd* [1950] NZLR 878, 309  
*Henry v Thompson* [1989] 2 Qd R 412, 346, 500  
*Henville v Walker* (2001) 206 CLR 459, 574  
*Herald & Weekly Times Ltd v Popovic* [2003] VSCA 161, 471  
*Herd v Weardale Steel, Coal & Coke Co* [1913] 3 KB 771, 251, 256  
*Herd v Weardale Steel, Coal & Coke Co* [1915] AC 67, 251  
*Herring v Boyle* (1834) 149 ER 1126, 261  
*Hesketh v Joltham Pty Ltd* [2000] QCA 44, 356  
*Hill v Chief Constable of West Yorkshire Police* [1988] 2 WLR 1049, 16, 92  
*Hill v Cooke* [1958] SR (NSW) 49, 345  
*Hill v Forrester* [2010] NSWCA 170, 528  
*Hill v Higgins* [2012] NSWSC 270, 349, 499  
*Hill v Region Pty Ltd* [2007] NSWCA 295, 304, 355  
*Hill v Tupper* (1864) 3 H & C 121, 271  
*Hill v Van Erp* (1997) 188 CLR 159, 53, 54, 56, 57, 69, 72, 73, 84  
*Hingst v Construction Engineering (Australia) Pty Ltd (No 3)* [2018] VSC 136, 58

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Hinkley v Star City Pty Ltd* [2011] NSWCA 299, 271  
*Hiort v London & North Western Railway Co* (1879) 4 Ex D 188, 356  
*Hoath v Connect Internet Services Pty Ltd* [2006] NSWSC 158, 293  
*Hobbelen v Nunn* [1965] Qd R 105, 538  
*Hockey v Fairfax Media Publications Pty Ltd* (2015) 237 FCR 33, 449–50, 474, 483  
*Hogan v Gill* [1992] Aust Torts Reports 81-182, 92  
*Hollins v Fowler* (1875) LR 7 HL 757, 305, 307, 308, 309–10, 311  
*Hollis v Vabu Pty Ltd* (2001) 207 CLR 21, 404, 408, 409, 415, 571  
*Holloway v McFeeters* (1956) 94 CLR 470, 142–3  
*Hollywood Silver Fox Farm v Emmett* [1936] 1 All ER 825, 376  
*Holmes v Bagge* (1853) 118 ER 629, 324  
*Holmes v Mather* (1875) LR 10 Ex 261, 229, 234  
*Holmes v Wilson* (1839) 113 ER 190, 290  
*Honsi v The Queen* [2011] NSWCCA 164, 250  
*Hong v Choo* [2004] HKEC 64, 285  
*Hook v Cunard Steamship Co Ltd* [1953] 1 WLR 682, 342  
*Hopkins v Crowe* (1836) 111 ER 974, 252  
*Hopper v Reeve* (1817) 129 ER 278, 228, 237  
*Horkin v North Melbourne Football Club Social Club* [1983] 1 VR 153, 230, 282, 324, 344, 492  
*Horne v Queensland* (1995) 22 MVR 111, 62  
*Hosking v Runting* [2003] 3 NZLR 385, 16  
*Houghland v RR Low (Luxury Coaches) Ltd* [1962] 1 QB 694, 313  
*Howard v Wing* [2000] TASSC 147, 320  
*Howard E Perry & Co Ltd v British Railways Board* [1980] 2 All ER 579, 310, 357  
*Howden v Truth & Sportsman Ltd* (1937) 68 CLR 416, 458–9  
*Hudson v Nicholson* (1839) 151 ER 185, 290  
*Hughes v Lord Advocate* [1963] AC 837, 181–2  
*Hulley v Silver Springs Bleaching & Dyeing Co* [1992] 2 Ch 268, 384  
*Hunter v Canary Wharf Ltd* [1997] AC 655, 363, 366, 368, 378  
*Hunter Area Health Service v Marchlewski* [2000] NSWCA 294, 501  
*Hunter BNZ Finance Ltd v Australia & New Zealand Banking Group Ltd* [1990] VR 41, 303, 354  
*Hunter and New England Area Health Service v A* (2009) 74 NSWLR 88, 334, 338, 340  
*Hunter and New England Local Health District v McKenna* (2014) 253 CLR 270, 75  
*Husher v Husher* (1999) 197 CLR 138, 519  
*Hutchins v Maughan* [1947] VLR 131, 232, 272  
*Hyder Consulting (Australia) Pty Ltd v Wilh Wilhelmsen Agency Pty Ltd* [2001] NSWCA 313, 510  
  
*IBL Ltd v Coussens* [1991] 2 All ER 133, 355  
*Illert v Northern Adelaide Local Health Network Inc* [2016] SASC 186, 320, 321  
*Imbree v McNeilly* (2008) 236 CLR 510, 64, 113–14, 198–9, 212, 219  
*Indermaur v Dames* (1866) LR 1 CP 274, 59, 60  
*Innes v Wylie* (1844) 174 ER 800, 19, 237  
*Insurance Commissioner v Joyce* (1948) 77 CLR 39, 217  
*Intel v Hamidi*, 30 Cal 4th 1342 (2003), 293  
*Irving v Penguin Books Ltd* [2000] EWHC QB 115, 461–2  
*Isparta v Richter* [2013] 6 SA 529, 472, 483  
  
*J & E Hall Ltd v Barclay* [1937] 3 All ER 620, 355  
*Jacobi v Griffiths* [1999] 2 SCR 570, 426

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Jaensch v Coffey* (1984) 155 CLR 549, 52, 79, 501  
*James v Harrison* (1977) 18 ACTR 36, 230  
*James v Oxley* (1939) 61 CLR 433, 309  
*Jane Doe v Australian Broadcasting Corporation* [2007] VCC 281, 485–6  
*Jarvis v Williams* [1955] 1 WLR 71, 302  
*JCS v The Queen* [2006] NSWCCA 221, 263  
*Jenkins v Jackson* (1888) 40 Ch D 71, 379  
*JLW (Vic) Pty Ltd v Tsiloglou* [1994] 1 VR 237, 498  
*Jobling v Associated Dairies Ltd* [1982] AC 794, 188  
*Joel v Morison* (1834) 6 Car & P 501, 410  
*John F Goulding Pty Ltd v Victorian Railways Commissioners* (1932) 48 CLR 157, 311–3  
*John Gallagher Panel Beating Co Pty Ltd v Palmer* [2007] NSWSC 627, 357  
*John Lewis & Co Ltd v Tims* [1952] AC 676, 250  
*John Pfeiffer Pty Ltd v Rogerson* (2003) 203 CLR 503, 14  
*Johns v Delaney* (1890) 16 VLR 729, 380  
*Johnson v Buchanan* (2012) 223 A Crim R 132, 268, 276  
*Johnson v Department of Community Services* [2000] Aust Torts Reports 81-540, 28–9  
*Johnson v Diprose* [1893] 1 QB 512, 296  
*Johnson Matthey (Australia) Ltd v Dascorp Pty Ltd* (2003) 9 VR 171, 355  
*Jolley v Sutton London Borough Council* [2000] 1 WLR 1082, 182  
*Jones v Bartlett* (2000) 205 CLR 166, 423  
*Jones v de Marchant* (1916) 28 DLR 561, 307  
*Jones v Harvey* (1983) 1 MVR 111, 250  
*Jones v Livox Quarries Ltd* [1952] 2 QB 608, 194  
*Jones v New South Wales* (unreported, 2004), 29  
*Jones v Shire of Perth* [1970] WAR 56, 508  
*Jones v Stroud District Council* [1988] 1 All ER 5, 510  
*Jones v Swansea City Council* [1990] 1 WLR 54, 576  
*Joslyn v Berryman* (2003) 214 CLR 552, 201, 202
- Kable v New South Wales* [2012] NSWCA 243, 263  
*Kallouf v Middis* [2008] NSWCA 61, 518  
*Kars v Kars* (1996) 187 CLR 345, 525  
*Kavanagh v Akhtar* (1998) 45 NSWLR 588, 183  
*Kay v Barnett* [1909] QWN 39, 293  
*Kaye v Robertson* [1991] FSR 62, 237  
*Kebewar Pty Ltd v Harkin* (1987) 9 NSWLR 738, 382, 573–4  
*Kelsen v Imperial Tobacco Co (of Great Britain and Ireland) Ltd* [1957] 2 QB 334, 271, 273, 276  
*Kennedy v Queensland Alumina Ltd* [2016] QCA 159, 194  
*Kent v Cavanagh* (1973) 1 ACTR 43, 382  
*Kent v Johnson* (1972) 21 FLR 177, 392  
*Khan v Keown* [2001] VSCA 137, 321  
*Khashoggi v IPC Magazines Ltd* [1986] 1 WLR 1412, 458  
*Kidman v Farmers' Centre Pty Ltd* [1959] Qd R 8, 356  
*King v Crowe* [1942] St R Qd 288, 243  
*King v Philcox* (2015) 255 CLR 304, 81  
*Kiobel v Royal Dutch Petroleum Co*, 569 US 108 (2013), 13  
*Kirk v Gregory* (1876) 1 Ex D 55, 300, 324  
*Knapp v Railway Executive* [1949] 2 All ER 508, 571



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Knight v The Queen* (1988) 35 A Crim R 314, 246  
*Knightley v John* [1982] 1 WLR 349, 185  
*Knupffer v London Express Newspaper Ltd* [1944] AC 116, 450  
*Koehler v Cerebos (Australia) Ltd* (2005) 222 CLR 44, 58  
*Kondis v State Transport Authority* (1984) 154 CLR 672, 58, 93, 95, 418, 423  
*Konskier v Goodman Ltd* [1928] 1 KB 421, 290, 341  
*Koremans v Sweeney* [1966] QWN 46, 538  
*Kostik v Giannakopoulos* [1989] Aust Torts Reports 80-274, 523  
*Kostov v Nationwide News Pty Ltd* [2018] NSWSC 858, 473  
*Kriz v King* [2006] QCA 351, 528  
*Kruber v Grzesiak* [1963] VR 621, 230  
*Kruger v Commonwealth* (1997) 190 CLR 1, 26–7  
*Ku-ring-gai Municipal Council v Bonnici* [2002] NSWCA 313, 365, 375  
*Kuchenmeister v Home Office* [1958] 1 QB 496, 254  
*Kuddus v Chief Constable of Leicestershire* [2002] 2 AC 122, 584  
*Kuhl v Zurich Financial Services Australia Ltd* (2011) 243 CLR 361, 55  
*Kuru v New South Wales* (2008) 236 CLR 1, 283, 284, 287–8, 340  
*Kuwait Airways Corporation v Iraqi Airways Co (Nos 4 and 5)* [2002] 2 AC 883, 301, 356  
*Kuwait Airways Corporation v Iraqi Airways Co* [2007] UKHL 19, 306  
*KY Enterprises Pty Ltd v Darby* [2013] VSC 484, 269
- Lagan Navigation Co v Lambeg Bleaching Co* [1927] AC 226, 496  
*Lahoud v Lahoud* [2009] NSWSC 623, 293  
*Lamb v Cotogno* (1987) 164 CLR 1, 346, 348, 500, 501, 502–3  
*Lambert v Roberts* [1981] 2 All ER 15, 283  
*Laming v Jennings* [2017] VCC 1223, 269  
*Lamru Pty Ltd v Kation Pty Ltd* (1998) 44 NSWLR 432, 353  
*Lancashire Waggon Co v Fitzhugh* (1861) 6 H & N 502, 308  
*Lang Parade Pty Ltd v Peluso* [2005] QSC 112, 276  
*Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, 437, 467  
*Laut & Loughlin v White Feather Main Reefs* (1905) 7 WALR 203, 523  
*Law v Visser* [1961] Qd R 46, 241  
*Law v Wright* (1935) SASR 20, 345  
*Lawlor v Johnston* [1905] VLR 714, 276  
*Le Lievre v Gould* [1893] 1 QB 491, 52, 58, 64  
*League Against Cruel Sports Ltd v Scott* [1986] QB 240, 291  
*Leahy v Beaumont* (1981) 27 SASR 290, 109  
*Leame v Bray* (1803) 102 ER 724, 228, 232  
*Lee v Wilson* (1934) 51 CLR 276, 450  
*Leerdam v Noori* (2009) 255 ALR 553, 578  
*Leichardt Municipal Council v Montgomery* (2007) 230 CLR 22, 417, 418, 432  
*Leighton Contractors Pty Ltd v Fox* (2009) 240 CLR 1, 418  
*Leitch v Leydon* [1931] AC 90, 296  
*Lemmon v Webb* [1894] 3 Ch 1, 268, 272  
*Lemmon v Webb* [1895] AC 1, 272, 332, 353, 496  
*Leonard v Pollock* [2012] WASCA 108, 153  
*Lepore v New South Wales* [2001] NSWCA 112, 428  
*Letang v Cooper* (1965) 1 QB 232, 229  
*Lewandowski v Medrzycki* [2003] VSC 277, 494

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Leward v Basely* (1695) 91 ER 937, 323  
*Ley v Lewis* [1952] VLR 119, 355  
*Leyden v Caboolture Shire Council* [2007] QCA 134, 23  
*Leyland Shipping Co v Norwich Union Fire Insurance Society* [1918] AC 350, 161  
*Libra Collaroy Pty Ltd v Bhide* [2017] NSWCA 196, 87  
*Liesboch (Dredger) v The Edison* [1933] AC 449, 354  
*Lilley v Doubleday* (1881) 7 QBD 510, 313  
*Lim v Canada & Islington Area Health Authority* [1980] AC 174, 514  
*Lim v Cho* [2018] NSWCA 145, 194, 207  
*Lincoln v Gravil* (1954) 94 CLR 430, 550  
*Lincoln Hunt Australia Pty Ltd v Willesee* (1986) 4 NSWLR 457, 268, 273, 283, 352  
*Lipovac v Hamilton Holdings Pty Ltd* (1997) 136 FLR 400, 523  
*Lisle v Bruce* [2002] 2 Qd R 168, 547  
*Lister v Hesley Hall Ltd* [2001] 1 AC 215, 427  
*Little v Commonwealth* (1947) 75 CLR 94, 250  
*Liverpool City Council v Laske* [2010] NSWCA 52, 530  
*Livingstone v Rawyards Coal Co* (1880) 5 AC 25, 498  
*LJP Investments Pty Ltd v Howard Chia Investments Pty Ltd* (1989) 24 NSWLR 490, 275–6, 351, 352–4  
*Lloyd v Osborne* (1899) 20 LR (NSW) 190, 312, 313  
*Lollis v Loulatzis* [2007] VSC 547, 350  
*Lord v McMahon* [2015] NSWSC 1619, 278, 290  
*Lotan v Cross* (1810) 170 ER 1219, 297  
*Louis v Commonwealth* (1987) 87 FLR 277, 255  
*Luke v Luke* (1936) 36 SR (NSW) 310, 272
- Mackay v Abrahams* [1916] VLR 681, 283  
*MacPherson v Beath* (1975) 12 SASR 174, 248  
*Macquarie Bank Ltd v Berg* (2006) 227 CLR 57, 475  
*Macrocom Pty Ltd v City West Centre Pty Ltd* [2003] NSWSC 898, 357  
*Madalena v Kuhn* (1989) 61 DLR (4th) 392, 341  
*Maguire v Simpson* (1977) 139 CLR 362, 89  
*Mahon v Osborne* [1939] 1 All ER 535, 143  
*Mahony v J Kruschich (Demolitions) Pty Ltd* (1985) 156 CLR 522, 185, 187, 497  
*Majindi v Northern Territory* (2012) 31 NTLR 150, 237, 238  
*Majrowski v Guy's and St Thomas' NHS Trust* [2006] 3 WLR 125, 571  
*Malec v JC Hutton Pty Ltd* (1990) 169 CLR 638, 519, 534, 535–6  
*Malette v Schulman* (1990) 67 DLR (4th) 321, 334, 337  
*Malone v Laskey* [1907] 2 KB 141, 378  
*Manchester Corporation v Farnworth* [1930] AC 171, 385  
*Manderson v Wright (No 2)* [2018] VSC 162, 371  
*Mann v O'Neill* (1997) 191 CLR 204, 463–4  
*Manser v Spry* (1994) 181 CLR 428, 537  
*March v E & MM Stramare Pty Ltd* (1989) 50 SASR 588, 174  
*March v E & MH Stramare Pty Ltd* (1991) 171 CLR 506, 22, 171, 174–5, 176, 180, 207  
*Marsh v Baxter* (2014) 46 WAR 377, 372  
*Marsh v Baxter* [2015] WASCA 169, 364, 373, 376  
*Marshall v Gotham Co Ltd* [1954] AC 300, 572  
*Marshall v Megna* [2013] NSWCA 30, 467  
*Mason v Clarke* [1955] AC 778, 272



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Masters v Brent London Borough Council* [1978] QB 841, 378  
*Matthews v SPI Electrical Pty Ltd (Ruling No 2)* (2011) 34 VR 584, 567–8  
*Mayfair Trading Co Pty Ltd v Dreyer* (1958) 101 CLR 428, 348  
*Maynes v Casey* [2010] NSWDC 285, 284  
*McCarty v North Sydney Municipal Council* (1918) 18 SR (NSW) 210, 378  
*McClelland v Symons* [1951] VLR 157, 248, 321  
*McCracken v Melbourne Storm Rugby Football Club Ltd* [2007] NSWCA 353, 519  
*McCullagh v Lawrence* [1989] 1 Qd R 163, 550  
*McDonald v Public Trustee* [2010] NSWSC 684, 504  
*McDowall v Reynolds* [2004] QCA 245, 271  
*McFadzean v Construction, Forestry, Mining and Energy Union* (2007) 20 VR 250, 250, 258–9, 262, 500  
*McGilvray v Amaca Pty Ltd* (Supreme Court of Western Australia, Pullin J, 14 December 2001), 543  
*McGrath v Marshall* (1898) 14 WN (NSW) 106, 289, 337  
*McHale v Watson* (1964) 111 CLR 384, 229, 230, 235  
*McHale v Watson* (1966) 115 CLR 199, 107–8, 197–8, 235  
*McInnes v Ahluwalia* [1999] NSWSC 818, 154  
*McInnes v Wardle* (1931) 45 CLR 548, 380  
*McKay v Essex Area Health Authority* [1982] 2 All ER 771, 153, 157  
*McKenna & Armistead Pty Ltd v Excavations Pty Ltd* (1956) 57 SR (NSW) 515, 313  
*McKeown v Cavalier Yachts Pty Ltd* (1988) 13 NSWLR 303, 357, 496  
*McKew v Holland* [1969] 3 All ER 1621, 187  
*McKiernan v Manhire* (1977) 17 SASR 571, 172  
*McLean v Tedman* (1984) 155 CLR 306, 206  
*McMahon v Catanzaro* [1961] QWN 22, 375  
*McNamara v Duncan* (1971) 45 FLR 152, 19, 239, 240, 335  
*McRae v Commonwealth Disposals Commission* (1951) 84 CLR 377, 517  
*Meadows v Ferguson* [1961] VR 594, 153  
*Meandarra Aerial Spraying Pty Ltd v GEJ & MA Geldard Pty Ltd* [2013] 1 Qd R 319, 128  
*Medlin v State Government Insurance Commission* (1995) 182 CLR 1, 518  
*Meering v Grahame-White Aviation Co Ltd* (1919) 122 LT 44, 261  
*Melaleuca Estate Pty Ltd v Port Stephens Council* [2006] NSWCA 31, 386  
*Mercer v Commissioner for Road Transport and Tramways (NSW)* (1937) 56 CLR 580, 137  
*Mercy Hospitals Victoria v D1* [2018] VSC 519, 334, 338–9  
*Merryweather v Nixan* (1799) 101 ER 1337, 560  
*Metals & Ropes Co Ltd v Tattersall* [1966] 3 All ER 401, 311  
*Metropolitan International Schools Ltd v Designtecnica Corp* [2011] 1 WLR 1743, 478  
*Michael v Western Australia* [2008] WACA 66, 337  
*Michos v Council of the City of Botany Bay* [2012] NSWSC 625, 376  
*Mickle v Farley* [2013] NSWDC 295, 437, 475, 482  
*Milk Bottles Recovery Ltd v Camillo* [1948] VLR 344, 305  
*Miller v Jackson* [1977] QB 966, 555  
*Miller v Miller* (2011) 242 CLR 446, 218, 219  
*Miller v Minister of Pensions* [1947] 2 All ER 372, 161  
*Miller v Sotiropoulos* [1997] NSWCA 204, 321  
*Ming Kuei Property Investments Pty Ltd v Hampson* [1995] 2 Qd R 251, 313  
*Minister Administering the Environmental Planning and Assessment Act 1979 v San Sebastian Pty Ltd* [1983] 2 NSWLR 268, 124, 127  
*Minister for Health v AS* [2004] WASC 286, 338

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Minister for Immigration and Border Protection* [2016] VSCA 206, 568  
*Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332, 573  
*Minister for Interior v RT Co Pty Ltd* (1963) 107 CLR 1, 353  
*Minister of State for Immigration and Ethnic Affairs v Teoh* (1995) 183 CLR 273, 15  
*Mitchell v Ealing London Borough Council* [1979] QB 1, 313  
*Mizikovskiy v Queensland Television Ltd* [2013] QCA 68, 460  
*M'Kean v M'Ivor* (1870) LR 6 Ex 36, 309  
*M'Leod v M'Ghie* (1841) 133 ER 771, 293  
*Modbury Triangle Shopping Centre Pty Ltd v Anzil* (2000) 205 CLR 254, 66, 92, 93, 399  
*Model Dairy Pty Ltd v White* (1935) 41 Arg LR 432, 307  
*Moon v Towers* (1860) 8 CB NS 611, 401  
*Moore v Devanjul Pty Ltd (No 5)* [2013] QSC 323, 269, 271, 331  
*Moore v Lambeth County Court Registrar (No 2)* [1970] 1 QB 560, 354  
*Moorgate Mercantile Co Ltd v Finch* [1962] 1 QB 701, 305  
*Moorgate Mercantile Co Ltd v Twitchings* [1977] AC 890, 308  
*Morris v C Martin & Sons Ltd* [1966] 1 QB, 410  
*Morris v Marsden* [1952] 1 All ER 925, 233, 238, 344  
*Mossmani v DailyMail.com Australia Pty Ltd* [2016] NSWDC 264, 482  
*Motium Pty Ltd v Arrow Electronics Australia Pty Ltd* [2011] WASCA 65, 499  
*Motor Accidents Insurance Board v Pulford* [1993] Aust Torts Reports 81-235, 542  
*Motor Dealers Credit Corporation Ltd v Overland (Sydney) Ltd* (1931) 31 SR (NSW) 516, 308  
*Mount Isa Mines Ltd v Pusey* (1970) 125 CLR 383, 182, 501  
*Mouse's Case* (1608) 77 ER 1341, 325  
*Mulcahy v Curramore Pty Ltd* [1974] 1 NSWLR 464, 270  
*Mulligan v Coffs Harbour City Council* (2005) 233 CLR 486, 129  
*Mummery v Irvings Pty Ltd* (1956) 96 CLR 99, 143  
*Munro v Southern Dairies Ltd* [1955] VLR 332, 373, 374  
*Murphy v Brown* (1985) 1 NSWLR 131, 507  
*Murphy v Culhane* [1977] QB 94, 239, 546  
*Murray v McMurchy* [1949] 2 DLR 442, 232, 327, 333, 341  
*Murray v Ministry of Defence* [1988] 1 WLR 692, 261  
*Mutch v Sleeman* (1928) 29 SR (NSW) 125, 459  
*Mutual Life & Citizens' Assurance Co Ltd v Evatt* (1968) 122 CLR 556, 70, 83, 84  
*Mutual Life & Citizens' Assurance Co Ltd v Evatt* (1970) 122 CLR 628, 83, 84  
*Myer Stores Ltd v Jovanovic* [2004] VSC 478, 303  
*Myer Stores Ltd v Soo* [1991] 2 VR 597, 250, 251, 252, 257, 259, 260-1, 262, 263, 264, 346, 500
- NA (Armes) v Nottinghamshire County Council* [2017] UKSC 60, 427  
*Nader v Urban Transit Authority (NSW)* (1985) 2 NSWLR 501, 89  
*Nagle v Rottnest Island Authority* (1993) 177 CLR 423, 89  
*Namala v Northern Territory* (1996) 131 FLR 468, 542  
*Naoum v Dannawi* [2009] NSWCA 253, 554  
*National Australia Bank Ltd v Nemur Variety Pty Ltd* [2002] VSCA 18, 356, 357  
*National Coal Board v JE Evans & Co (Cardiff) Ltd* [1951] 2 KB 861, 300  
*National Crime Authority v Flick* (1998) 86 FCR 16, 304  
*National Insurance Co of New Zealand Ltd v Espagne* (1961) 105 CLR 569, 537, 538  
*Nationwide News Pty Ltd v Naidu* (2007) 71 NSWLR 471, 234  
*Nau v Kemp & Associates Pty Ltd* [2010] NSWCA 164, 558  
*Naxakis v Western General Hospital* (1999) 197 CLR 269, 115

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Neal v CSR Ltd* [1990] Aust Torts Reports 81-052, 523  
*Neal v The Queen* [2011] VSCA 172, 337  
*Nettleship v Weston* [1971] 2 QB 691, 212  
*New South Wales v Abed* [2014] NSWCA, 346  
*New South Wales v Corby* [2010] NSWCA 27, 500  
*New South Wales v Ibbett* (2006) 229 CLR 638, 17, 268, 348, 351, 415, 500, 503, 506–7  
*New South Wales v Knight* [2002] NSWCA 392, 230  
*New South Wales v Koumdjiev* [2005] NSWCA 247, 285  
*New South Wales v Kuru* [2007] NSWCA 141, 287  
*New South Wales v Lepore* (2003) 212 CLR 511, 410, 412, 418, 421, 427, 428, 9–429  
*New South Wales v McCarthy* [2015] NSWCA 153, 285, 286  
*New South Wales v McMaster* [2015] NSWCA 228, 249  
*New South Wales v Riley* [2003] NSWCA 208, 344, 347, 500  
*New South Wales v Stevens* [2012] NSWCA 415, 499  
*New South Wales v Tyszyk* [2008] NSWCA 107, 393  
*New South Wales v Zreika* [2012] NSWCA 37, 346  
*Newcastle Entertainment Security Pty Ltd v Simpson* [1999] NSWCA 351, 422  
*Newington v Windeyer* (1985) 3 NSWLR 555, 270  
*Nguyen v Nguyen* (1990) 169 CLR 245, 159, 549, 550, 551  
*Nguyen v Scheiff* [2002] NSWSC 151, 554  
*Nicholls v Ely Beet Sugar Factory Ltd* [1931] 2 Ch 84, 270  
*Nicholls v Ely Beet Sugar Factory Ltd* [1936] Ch 343, 234, 378  
*Nicholson v Nicholson* (1994) 35 NSWLR 308, 207  
*Nicol v Nicol* (1887) 13 VLR 322, 332  
*Nielsen v Brisbane Tramways Co Ltd* (1912) 14 CLR 354, 385  
*NIML Ltd v Man Financial Australia Ltd* [2006] VSCA 128, 293  
*Nioni v Shire of Kellerberin* (2017) 248 FCR 311, 576  
*Nixon v Slater & Gordon* [2000] Aust Torts Reports 81-565, 452–3, 475  
*Nominal Defendant v Andrews* (1969) 121 CLR 562, 303  
*Nominal Defendant v Cooper* [2017] NSWCA 280, 215  
*Nominal Defendant v Morgan Cars Pty Ltd* (1974) 131 CLR 22, 303  
*Nominal Defendant v Taylor* (1982) 154 CLR 106, 548  
*Non-Marine Underwriters, Lloyds of London* (2000) 185 DLR (4th) 1, 332  
*Norris v Blake (No 2)* (1997) 41 NSWLR 49, 519  
*Northam v Bowden* (1855) 156 ER 749, 302  
*Northern Sandblasting Pty Ltd v Harris* (1997) 188 CLR 313, 417, 423  
*Northern Territory v Mengel* (1995) 185 CLR 307, 576, 580–1, 585  
*Norton v Hoare (No 1)* (1913) 17 CLR 310, 324  
*Norwich Pharmacal Co v Customs and Excise Commissioners* [1974] AC 133, 477  
*Nunan v Southern Railway Co* [1924] 1 KB 223, 546  
*Nyoni v Shire of Kellerberin* (2017) 248 FCR 311, 579–80, 581, 582–4  
  
*Oakley v Lyster* [1931] 1 KB 148, 310  
*Obeid v Lockley* [2018] NSWCA 71, 578, 581  
*Ocean Estates Ltd v Pender* [1969] 2 AC 19, 270  
*O'Connor v SP Bray Ltd* (1937) 56 CLR 464, 565  
*Odhavji Estate v Woodhouse* [2003] 3 SCR 263, 582  
*Oldham v Lawson (No 1)* [1976] VR 654, 363, 378  
*Oliver v AT&T Wireless Services*, 76 Cal App 4th, 524 (1999), 382

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Onus v Telstra Corporation Ltd* [2011] NSWSC 33, 373–4  
*Origliasso v Vitale* [1952] St R Qd 211, 243  
*O'Shane v Harbour Radio Pty Ltd* [2013] NSWCA 315, 463  
*O'Shea v Permanent Trustee Co of NSW Ltd* [1971] Qd R 1, 218  
*O'Shea v Sullivan* [1994] Aust Torts Reports 81–273, 541  
*Osman v United Kingdom* (1998) 29 EHRR 245, 16  
*Overseas Tankship (UK) Ltd v Miller Steamship Co ("The Wagon Mound (No 2)")* [1967] 1 AC 617, 181  
*Overseas Tankship (UK) Ltd v Mort's Dock & Engineering Co Ltd ("The Wagon Mound (No 1)")* [1961] AC 388, 181, 182, 546  
*Owen v Lewyn* (1672) 1 Vent 223, 309  
*Owners Strata Plan No 61288 v Brookfield Australia Investments Ltd* (2013) 85 NSWLR 479, 71
- Paff v Speed* (1961) 105 CLR 549, 497, 517  
*Page Motors Ltd v Epsom and Ewell Borough Council* (1981) 80 LGR 337, 380  
*Paine v Colne Valley Electricity Supply Co Ltd* [1938] 4 All ER 803, 94  
*Painter v Reed* [1930] SASR 295, 375  
*Pallante v Stadiums Pty Ltd* [1976] VR 331, 239  
*Palmer Bruyn & Parker Pty Ltd v Parsons* (2001) 208 CLR 388, 345, 349, 554  
*Pantalone v Alaouie* (1989) 18 NSWLR 119, 382, 561  
*Papadimitropoulos v The Queen* (1957) 98 CLR 249, 337  
*Pargiter v Alexander* (1995) 5 Tas R 158, 354, 507, 508  
*Paris v Stepney Borough Council* [1951] 1 All ER 42, 131–2  
*Parker v British Airways Board* [1982] QB 1004, 17, 302, 304  
*Parker v Commonwealth* (1965) 112 CLR 295, 550  
*Parry v Crooks* (1981) 27 SASR 1, 348, 554  
*Parsons v Partridge* (1992) 111 ALR 257, 230  
*Partridge v Chick* (1951) 84 CLR 611, 545, 546  
*Pask v Owen* [1987] Qd R 421, 570  
*Pastras v Commonwealth* [1967] VR 161, 515  
*Patroni v Conlan* [2004] WASC 1, 357  
*Paul v Cooke* [2013] NSWCA 311, 215  
*Pavesich v New England Life Insurance Co*, 122 Ga 190 (1905), 438  
*Payne v Dwyer* [2013] WASC 271, 301, 304  
*Pearce v Hallett* [1969] SASR 423, 320, 321, 323  
*Peipman v Turner* [1961] NSW 252, 550  
*Penfolds Wines Pty Ltd v Elliott* (1946) 74 CLR 204, 296, 297, 298–9, 300, 301, 302, 303, 305, 307, 309, 311  
*Pennington v Norris* (1956) 96 CLR 10, 209  
*Penrith City Council v Parks* [2004] NSWCA 201, 518  
*Perera v Genworth Financial Mortgage Insurance Pty Ltd* (2017) 94 NSWLR 83, 76  
*Perpetual Trustees Australia Ltd v Heperu Pty Ltd* [2009] NSWCA 84, 303, 305  
*Perpetual Trustees & National Executors of Tasmania Ltd v Perkins* [1989] Aust Torts Reports 80–295, 17, 303, 308, 357  
*Perre v Apand Pty Ltd* (1999) 198 CLR 180, 19, 21, 53–4, 68, 69, 72, 86  
*Phillips v Robab Pty Ltd* [2014] NSWSC 1520, 458  
*Phillips v William Whitely* [1938] 1 All ER 566, 112  
*Philpott v Kelley* (1835) 111 ER 353, 307  
*Phipps v Pears* [1965] 1 QB 76, 382  
*Phoenix Society Ltd v Cavenagh* (1996) 25 MVR 143, 411  
*Pike v Waldrum* [1952] 1 Lloyd's Rep 431, 251

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Piro v W Foster & Co Ltd* (1943) 68 CLR 313, 575  
*Planet Fisheries Pty Ltd v La Rosa* (1968) 119 CLR 118, 541  
*Platt v Nutt* (1988) 12 NSWLR 231, 230  
*Plenty v Dillon* (1991) 171 CLR 635, 268, 279, 280, 282, 284, 286, 288, 335, 340, 348  
*Plumpton Park Developments Pty Ltd v SAS Trustee Corporation* [2018] NSWSC 461, 388  
*Podrebersek v Australian Iron & Steel Pty Ltd* (1985) 59 ALJR 492, 208–9, 211  
*Police v Greaves* [1964] NZLR 295, 246  
*Police (SA) v G, DM* [2016] SASC 39, 342  
*Polly Peck plc v Trelford* [1986] QB 1000, 459  
*Port Stephens Shire Council v Tellamist Pty Ltd* [2004] NSWCA 353, 273, 349  
*Powell v McFarlane* (1977) 38 P & CR 452, 269, 270  
*Powercor Australia Ltd v Thomas* (2012) 43 VR 220, 350, 354, 508, 510, 511–12  
*Pratt v Connolly* (1994) Aust Torts Reports 81-283, 402  
*Pratten v New South Wales* [2018] NSWDC 299, 347  
*Pratten v Pratten* [2005] QCA 213, 310  
*Precision Products (NSW) Pty Ltd v Hawkesbury City Council* (2008) 74 NSWLR 102, 67  
*Premier Group Pty Ltd v Followmont Transport Pty Ltd* [1999] QCA 232, 312  
*Price v New South Wales* [2011] NSWCA 341, 423  
*Prince Alfred College Inc v ADC* (2016) 258 CLR 134, 429, 430–1  
*Private Parking Services (Vic) Pty Ltd v Huggard* (1996) Aust Tort Reports 81-397, 354, 356  
*Proctor v Bayley* (1889) 42 Ch D 390, 555  
*Proprietors of Strata Plan No 14198 v Cowell* (1989) 24 NSWLR 478, 496  
*Proudman v Allen* [1954] SASR 336, 324, 326–7, 328  
*Public Transport Commission (NSW) v Perry* (1977) 137 CLR 107, 18, 233, 291, 342  
*Public Trustee v Hermann* (1968) 88 WN (NSW) 442, 350  
*Public Trustee v Zoanetti* (1945) 70 CLR 266, 501, 550  
*Pusey v Pusey* (1684) 23 ER 465, 496  
*Pyne v Wilkenfeld* (1981) 26 SASR 441, 172
- Qualcast (Wolverhampton) Ltd v Haynes* [1959] AC 743, 103  
*Quality Roads Pty Ltd v Baw Baw Shire Council (Ruling No 1)* [2016] VSC 477, 574  
*Queensland v Nolan* [2002] 1 Qd R 454, 328  
*Queensland Police Service v Skennar* [2017] QMC 11, 321  
*Quinn v Leathem* [1901] AC 495, 344
- R v Brady* [2006] EWCA Crim 2413, 337  
*R v Brockhill Prison; Ex parte Evans (No 2)* [2000] 2 AC 19, 343  
*R v Brown* [1993] 2 WLR 556, 341  
*R v Clarence* (1888) 22 QBD 23, 337  
*R v Coney* (1882) 8 QBD 534, 341  
*R v Cotesworth* (1704) 87 ER 928, 237, 238  
*R v Deputy Governor of Parkhurst Prison; Ex parte Hague* [1992] 1 AC 58, 250  
*R v Dica* [2004] 3 WLR 213, 337  
*R v Forsyth* [2013] ACTSC 174, 321  
*R v Gabriel* (2004) 182 FLR 102, 245, 246, 247, 248  
*R v Garrett* (1988) 50 SASR 392, 250, 257  
*R v Governor of Brockhill Prison; Ex parte Evans (No 2)* [2001] 2 AC 19, 250, 263  
*R v Hamilton* (1891) 12 LR (NSW) 111, 248  
*R v Ireland* [1998] AC 147, 246, 249



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- R v Kelly* [1998] 3 All ER 741, 294  
*R v Macquarie* (1875) 13 SCR (NSW) 264, 257, 259  
*R v Madden* [1975] 3 All ER 155, 391  
*R v Meade and Belt* (1823) 1 Lew CC 184, 246  
*R v Medley* (1834) 172 ER 1246, 391  
*R v Mostyn* [2004] NSWCCA 97, 248  
*R v Phillips* (1971) 45 ALJR 467, 247  
*R v Portelli* (2004) 10 VR 259, 323, 324, 493  
*R v Rimmington* [2005] UKHL 63, 363, 391, 392  
*R v Savage* [1992] 1 AC 699, 249  
*R v St George* (1840) 9 Car & P 483, 248  
*R v Stein* (2007) 18 VR 376, 341  
*R v Terry* [1955] VLR 114, 342  
*R v Venna* [1976] QB 421, 242  
*R v Vollmer* [1996] 1 VR 95, 263  
*R v Williams* [1923] 1 KB 340, 337  
*R (Lumba) v Secretary of State for the Home Department* [2012] 1 AC 245, 500  
*R (Pretty) v Director of Public Prosecutions* [2002] 1 AC 800, 334  
*Raciti v Hughes* (1995) 7 BPR 14,837, 383  
*Raciti v Hughes* (1995) 7 BPR 97,601, 383–4  
*Radding v Lee* (1983) 151 CLR 117, 537  
*Radio 2UE Sydney Pty Ltd v Chesterton* (2009) 238 CLR 460, 444–5  
*Ramage v Evans* [1948] VLR 391, 325  
*Ramsay v Larsen* (1964) 111 CLR 16, 62, 342  
*Random House Australia Pty Ltd v Abbott* (1999) 94 FCR 296, 447–8  
*Ranger v Giffin* (1968) 87 WN (Pt 1) (NSW), 304  
*Raper v Bowden* [2016] TASSC 35, 533  
*Rasco Pty Ltd v Lucas* [2017] VSC 703, 349  
*Rayney v Western Australia* [2017] WASC 367, 474  
*Re A* (1990) 72 DLR (4th) 722, 334  
*Re A* (1993) FLC 92–402, 340  
*Re A (Children) (Conjoined Twins: Surgical Separation)* [2000] 4 All ER 961, 325, 328  
*Re B (Adult: Refusal of Medical Treatment)* [2002] 2 All ER 449, 334  
*Re Baby R* (1988) 53 DLR (4th) 69, 334  
*Re Bolton; Ex parte Beane* (1987) 162 CLR 514, 250  
*Re Cohen; National Provincial Bank Ltd v Katz* [1953] Ch 88, 277  
*Re Cresswell* [2018] QSC 142, 294, 295  
*Re F (Mental Patient: Sterilisation)* [1990] 2 AC 1, 239, 241, 326  
*Re GWW and CMW* (1997) 136 FLR 421, 340  
*Re Inaya (Special Medical Procedure)* [2007] FamCA 658, 340  
*Re iPhone Application Litigation*, 844 F Supp 2d 1040 (ND Cal, 2012), 293  
*Re Jamie* [2015] FamCA 455, 340  
*Re LG* [2017] FCWA 179, 338, 340  
*Re NL Mercantile Group Pty Ltd* [2018] NSWSC 1337, 311, 357  
*Re Polemis* [1921] 3 KB 560, 161, 180–1  
*Re T* (1992) 3 Med LR 306, 334  
*Read v Coker* (1853) 13 CB 850, 246  
*Read v Great Eastern Railway Co* (1868) LR 3 QB 555, 546  
*Reeves v Commissioner of Police* [2000] 1 AC 360, 212

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Reeves v The Queen* (2013) 304 ALR 251, 333  
*Regie Nationale des Usines Renault SA v Zhang* (2002) 210 CLR 491, 14  
*Register.com Inc v Verio Inc*, 356 F 3d 393 (2d Cir, 2004), 293  
*Renner v Orchard* [1967] QWN 3, 522  
*Reynolds v Clarke* (1725) 1 Str 634, 17, 227, 232, 272  
*Rich v Basterfield* (1847) 4 CB 783, 380  
*Rich v Queensland* [2001] QCA 295, 427, 428  
*Richards v Victoria* [1969] VR 136, 61  
*Richardson v Atkinson* (1723) 93 ER 710, 307  
*Rick Cobby Haulage Pty Ltd v Simsmetal Pty Ltd* (1986) 43 SASR 533, 306  
*Rigby v Chief Constable of Northamptonshire* [1985] 1 WLR 1242, 278, 324, 328  
*RinRim Pty Ltd v Deutsche Bank AG* [2017] NSWCA 169, 70  
*Rinsale Pty Ltd v Australian Broadcasting Corporation* [1993] Aust Torts Reports 81-231, 268, 279  
*Riverman Orchards Pty Ltd v Hayden* [2017] VSC 379, 372  
*Rixon v Star City Pty Ltd* (2001) 53 NSWLR 98, 239, 240–1, 249  
*RMA Insurance Ltd v B & B Shipping & Marine Salvage Co Pty Ltd* (1947) 47 SR (NSW) 273, 270  
*Roads and Traffic Authority (NSW) v Dederer* (2007) 324 CLR 330, 125, 130–1  
*Roads and Traffic Authority (NSW) v Refrigerated Roadways Pty Ltd* (2009) 77 NSWLR 360, 104  
*Robert v Bass* (2002) 212 CLR 1, 467  
*Roberts v Ramsbottom* [1980] 1 WLR 823, 109, 345  
*Roberts v Roberts* (1864) 122 ER 874, 153  
*Robertson v Balmain New Ferry Co Ltd* [1910] AC 295, 255, 342  
*Robertson v Robin* [1967] SASR 151, 549  
*Robin v Public Trustees (ACT)* [2015] ATCSC 100, 294  
*Robin v Public Trustee (ACT)* [2015] ACTSC, 100, 294  
*Robinson v Kilvert* (1889) 41 Ch D 88, 373, 374  
*Roblin v Public Trustees (ACT)* [2015] ACTSC 100, 294  
*Robson v Leischke* [2008] NSWLEC 152, 272, 366, 368  
*Robson-Paul v Farrugia* (1969) 20 CLR 820, 285  
*Roche v Douglas* [2000] WASC 146, 294  
*Rodrigues v Ufton* (1894) 20 VLR 539, 269  
*Roe v Ministry of Health* [1954] 2 QB 66, 121–2, 125, 127, 419  
*Rogers v Whitaker* (1992) 175 CLR 479, 112, 115, 139–40, 172, 179–80, 215, 333  
*Roggenkamp v Bennett* (1950) 80 CLR 292, 212, 213  
*Rolls Royce Industrial Power (Pacific) Ltd v James Hardie & Co Pty Ltd* [2001] NSWCA 461, 561  
*Roman Catholic Church Trustees for the Diocese of Canberra and Goulburn* (2005) 221 CLR 161, 61  
*Romeo v Conservation Commission (NT)* (1998) 192 CLR 431, 89, 132–3  
*Rookes v Barnard* [1964] AC 1129, 502  
*Rootes v Shelton* (1967) 116 CLR 383, 212  
*Rosecell Pty Ltd v JP Haines Plumbing Pty Ltd* [2015] NSWSC 1238, 308  
*Rosecrance v Rosecrance* (1995) 105 NTR 1, 522  
*Rosenberg v Percival* (2001) 205 CLR 434, 115  
*Ross v Warrick Howard (Australia) Pty Ltd* (1986) 4 SR (WA) 1, 230  
*Ruddock v Taylor* (2003) 58 NSWLR 269, 250, 263  
*Ruddock v Taylor* (2005) 222 CLR 612, 250, 252–3, 263  
*Rufu v Hosking* (2004) 61 NSWLR 678, 154  
*Ruhani v Director of Police (No 2)* (2005) 222 CLR 580, 250  
*Rush v Nationwide News Pty Ltd* (2018) 359 ALR 473, 460  
*Russell v Rail Infrastructure Corporation* [2007] NSWSC 402, 198, 199

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)*Russell v Wilson* (1923) 33 CLR 538, 302*Rust v Victoria Graving Dock Co* (1997) 36 Ch D 113, 350*Ryan v Ann St Holdings* [2006] QCA 217, 411–12*Rylands v Fletcher* (1866) LR 1 Ex 265, 418*Rylands v Fletcher* (1868) LR 3 HL 330, 72, 418, 421, 422*S v Department of Immigration and Multicultural and Indigenous Affairs* (2005) 143 FCR 217, 424*S v G* [1995] 3 NZLR 681, 332*S (An Infant) v S* [1972] AC 24, 336*Sadcas Pty Ltd v Business & Professional Finance Pty Ltd* [2011] NSWCA 267, 355, 356*Sadler v Henlock* (1855) 119 ER 209, 410*Safari 4 x 4 Engineering Pty Ltd v Doncaster Motors Pty Ltd* [2006] VSC 460, 308*Sahade v Bischoff* [2015] NSWCA 418, 249, 499*Samios v Repatriation Commission* [1960] WAR 219, 419–20*Sampson v Hodson-Pressinger* [1981] 3 All ER 710, 379*San Sebastian Pty Ltd v Minister Administering the Environmental Planning and Assessment Act 1979 (NSW)* (1986) 162 CLR 340, 52, 53, 84*Sanchez-Sidiropoulos v Canavan* [2015] NSWSC 1139, 136*Sanders v Snell* (1998) 196 CLR 329, 576*Sanders v Snell* (2003) 130 FCR 149, 582*Sarei v Rio Tinto plc*, 221 F Supp 2d 1116 (CD Cal, 2002), 13*Sayers v Harlow* [1958] 1 WLR 623, 253*Sayers v Harlow Urban District Council* [1958] 1 WLR 623, 257, 262*SBEG v Commonwealth* (2012) 208 FCR 235, 424*Scanlon v American Cigarette Co (Overseas) Pty Ltd (No 3)* [1987] VR 289, 213–14*Schellenberg v Tunnel Holdings Pty Ltd* (2000) 200 CLR 121, 144, 163*Schemell v Pomeroy* (1989) 50 SASR 450, 305*Schimke v Clement* [2011] QSC 182, 548, 549*Schleter v Brazakka Pty Ltd* (2002) 12 NTLR 76, 274*Schmidt v Argent* [2003] QCA 507, 4*Schmell v Pomeroy* (1989) 50 SASR 450, 307*Scholefield v Bates* [1958] SASR 317, 550*Scholz v Standish* [1961] SASR 123, 109*Schuller v SJ Webb Nominees Pty Ltd* [2015] 124 SASR 152, 19, 216–17*SCM (United Kingdom) Ltd v WJ Whittall & Son Ltd* [1971] 1 QB 337, 86, 372*Scott v Davis* (2000) 204 CLR 333, 402*Scott v Shepherd* (1773) 96 ER 525, 18, 19, 227–8, 232, 237*Seaman v Cuppledick* (1614) 74 ER 966, 323*Seavey v Preble*, 64 Me 120 (1874), 325*Secretary, Department of Health and Community Services v JWB* (1992) 175 CLR 218, 240, 332, 333, 338, 340*Secretary of State for the Environment v Meier* [2009] UKSC 11, 270*Seddon v Smith* (1877) 36 LT 168, 270*Sedleigh-Denfield v O'Callaghan* [1940] AC 880, 364, 372, 380*Seidler v Luna Park Reserve Trust* (Supreme Court of New South Wales, Hodgson J, 21 September 1995), 372*Seiko Epson Corporation v Calidad Pty Ltd* [2017] FCA 1403, 569, 570*Semenov v Pirvu* [2011] VSC 605, 355*Semple v Mant* (1985) 39 SASR 282, 278*Shaddock & Associates Pty Ltd v Parramatta City Council (No 1)* (1981) 150 CLR 225, 70, 71, 83–4, 89



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Shannon v New South Wales* [2015] NSWDC 69, 271  
*Sharman v Evans* (1977) 138 CLR 563, 517, 519, 520, 522, 523–4, 542  
*Shaw v Thomas* (2010) Aust Torts Reports 82-065, 128  
*Shelfer v City of London Electric Lighting* [1895] 1 Ch 287, 352  
*Sherman v Condon* [2014] QDC 189, 352  
*Shogunn Investments Pty Ltd v Public Transport Authority of Western Australia* [2016] WASC 42, 390  
*Short v City Bank of Sydney* (1912) 15 CLR 148, 303, 308  
*Sibley v Kais* (1967) 118 CLR 424, 136  
*Sibley v Milutinovic* (1990) Aust Torts Reports 81-013, 241, 335  
*Sidaway v Bethlem Royal Hospital Governors* [1985] 1 All ER 643, 115  
*Silverbrook Research Pty Ltd v Lindley* [2010] NSWCA 357, 538  
*Simmons v Castle* [2013] 1 WLR 1239, 541  
*Simon v Condran* [2013] NSWCA 388, 328  
*Simpson v Knowles* [1974] VR 190, 271  
*Simsek v Macphee* (1982) 148 CLR 636, 552  
*Sinclair v Haynes* [2000] NSWSC 642, 355  
*Singh v Ali* [1960] AC 167, 302  
*Singh v Smithenbecker* (1923) 23 SR (NSW) 207, 278, 282  
*Sino Iron Pty Ltd v Mineralogy Pty Ltd (No 2)* [2017] WASCA 76, 371  
*Six Carpenters' Case* (1610) 77 ER 695, 289  
*Skelton v Collins* (1966) 115 CLR 94, 515, 520, 541, 542, 543  
*Slaveski v Victoria* [2010] VSC 441, 246, 250, 300, 353–4  
*Smith v Baker & Sons* [1891] AC 325, 211  
*Smith v Leurs* (1945) 70 CLR 256, 91, 92, 345, 399  
*Smith v Littlewoods Organisation Ltd* [1987] 1 AC 241, 91  
*Smith v Lucht* [2016] QCA 267, 473  
*Smith v Scott* [1973] Ch 314, 380  
*Smith v Stone* (1647) 82 ER 533, 18, 19, 233, 291  
*Smith v Warringah Shire* (1961) 79 WN (NSW) 436, 391  
*Soblusky v Egan* (1960) 103 CLR 215, 402  
*Solloway v McLaughlin* [1938] AC 247, 356  
*Solomons v Pallier* [2015] NSWCA 266, 194  
*Sorrell v Smith* [1925] AC 700, 245  
*Sorrento Medical Service Pty Ltd v Chief Executive, Department of Main Roads* [2007] QCA 73, 271  
*Sotelo v DirectRevenue LLC*, 384 F Supp 2d 1219 (ND Ill, 2005), 293  
*South Australia v Lampard-Trevorrow* (2010) 106 SASR 331, 30  
*South Staffordshire Water Co v Sharman* [1896] 2 QB 44, 302, 304  
*Southern Properties (WA) Pty Ltd v Executive Director, Department of Conservation and Land Management* (2012) 42 WAR 287, 385, 386–7  
*Southgate v Waterford* (1990) 21 NSWLR 427, 541  
*Southport Corporation v Esso Petroleum Co Ltd* [1954] 2 QB 182, 272, 362  
*Southwark London Borough Council v Tanner* [2001] 1 AC 1, 365  
*Southwark London Borough Council v Williams* [1971] Ch 734, 324, 327  
*Sovar v Henry Lane Pty Ltd* (1967) 116 CLR 397, 570  
*Sparke v Osborne* (1908) 7 CLR 51, 375  
*Spartan Steel & Alloys Ltd v Martin & Co (Contractors) Ltd* [1973] 1 QB 27, 86  
*Spencer v Silva* [1942] SASR 213, 373  
*Spicer v Smee* [1946] 1 All R 489, 380  
*Spiteri v Fibreglass Industrial Products Pty Ltd* [2017] VSC 768, 269

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- SSYBA Pty Ltd v Lane* [2013] WASC 445, 290  
*St George Bank Ltd v Quinerts Pty Ltd* [2009] VSCA 245, 559  
*St George's Healthcare NHS Trust v S* [1999] Fam 26, 334  
*St Helen's Smelting Co v Tipping* (1865) 11 ER 1483, 363, 364, 367, 368  
*Standard Electronic Apparatus Laboratories Pty Ltd v Stenner* [1960] NSW 447, 295, 296, 302  
*Stanley v Powell* [1891] 1 QB 86, 229, 233, 342  
*State Rail Authority (NSW) v Wiegold* (1991) NSWLR 25, 175  
*Stephens v Myers* (1830) 172 ER 725, 345  
*Stevens v Brodribb Sawmilling Co Pty Ltd* (1986) 160 CLR 16, 53, 408  
*Stevens v Myers* (1830) 172 ER 735, 247  
*Stevenson, Jordan & Harrison Ltd v MacDonald & Evans* [1952] 1 TLR 101, 407  
*Stewart v Ackland* [2015] ACTCA 1, 212  
*Stingel v Clark* (2006) 226 CLR 442, 236  
*Stokes v RSM Security Pty Ltd* [2004] NSWCA 351, 411  
*Stoneman v Lyons* (1975) 133 CLR 550, 273, 277  
*Stott v West Yorkshire Road Car Co Ltd* [1971] 2 QB 651, 561  
*Strand Electric & Engineering Co Ltd v Brisford Entertainments Ltd* [1952] 2 QB 246, 496, 500  
*Strategic Formwork Pty Ltd v Hitchen* (2018) 277 IR 220, 66  
*Strong v Woolworths Ltd* (2012) 246 CLR 182, 19, 23, 166, 168–70  
*Stroud v Bradbury* [1952] 2 All ER 76, 324  
*Stuart v Bell* [1891] 2 QB 341, 467  
*Stuart v Kirkland-Veenstra* (2009) 237 CLR 215, 74–5, 564  
*Stubbings v Webb* [1993] AC 498, 229  
*Sturges v Bridgman* (1879) 11 Ch D 852, 363, 371, 384  
*Sullivan v Gordon* (1999) 47 NSWLR 319, 529  
*Sullivan v Micallef* [1994] Aust Torts Reports 81–308, 543  
*Sullivan v Moody* (2001) 207 CLR 562, 21, 54, 67, 75  
*Suncorp Insurance & Finance v Blakeney* [1993] Aust Torts Reports 81–253, 218  
*Sutherland Shire Council v Heyman* (1985) 157 CLR 424, 52, 53  
*Swain v Waverley Municipal Council* (2005) 220 CLR 517, 134  
*Swan v South Australia* (1993) 62 SASR 532, 92  
*Sweeney v Boylan Nominees Pty Ltd* (2006) 226 CLR 161, 403, 404, 407–8  
*Swordheath Properties Ltd v Tabet* [1979] 1 WLR 285, 353  
*Sydney Corporation v West* (1965) 114 CLR 481, 309  
*Symes v Mahon* [1922] SASR 447, 250, 259, 261, 337, 343  
  
*Tabet v Gett* (2010) 240 CLR 537, 154–5  
*Tabet v Mansour* [2007] NSWSC 36, 154  
*Tame v New South Wales* (2002) 211 CLR 317, 79–80, 106  
*Tang v Minister for Immigration and Ethnic Affairs* (Federal Court of Australia, Wilcox J, 11 April 1996), 250  
*Tate & Lyle Industries v Greater London Council* [1983] 2 AC 509, 390  
*Taylor v Owners Strata Plan No 11564* (2014) 253 CLR 531, 551  
*TCN Channel Nine Pty Ltd v Anning* (2002) 54 NSWLR 333, 278, 279–80, 282, 284, 345, 349, 351, 500  
*TCN Channel Nine Pty Ltd v Ilvariy Pty Ltd* [2008] NSWCA 9, 351  
*Tecbild Ltd v Chamberlain* (1969) 20 P & CR 633, 270  
*Telecom Vanuatu Ltd v Optus Networks Pty Ltd* [2008] NSWSC 1209, 293  
*Tetley v Chitty* [1986] 1 All ER 663, 380  
*Teubner v Humble* (1963) 108 CLR 491, 102, 541, 542

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Textile Clothing and Footwear Union of Australia v Hyuck Wangner Australia Pty Ltd* [2008] FCA 1504, 555
- Tharpe v Stallwood* (1843) 5 Man & G 760, 297
- The Arpad* [1934] P 189, 309
- The Endeavour* (1890) 6 Asp 511, 510
- The Mediana* [1900] AC 113, 354, 498, 512
- The Oropesa* [1943] P 32, 185–6, 187
- The Winkfield* [1902] P 42, 303
- Theaker v Richardson* [1962] 1 WLR 151, 453
- Thomas v Kula* [2001] WASCA 362, 529
- Thompson v Australian Capital Television Pty Ltd* (1996) 186 CLR 574, 416, 558, 561
- Thompson v Gibson* (1841) 151 ER 845, 379
- Thompson v Vincent* [2005] NSWCA 219, 284
- Thompson-Schwab v Costaki* [1956] 1 WLR 335, 363, 368
- Thomson v STX Pan Ocean Co Ltd* [2012] FCAFC 15, 354
- Thornton v Telegraph Media Group Ltd* [2010] EWHC 1414, 473
- Thorpe v Brumfitt* (1873) 8 Ch App 650, 388
- Thorpes v Grant Pastoral Co Pty Ltd* (1954) 92 CLR 317, 363
- Three Rivers District Council v Bank of England (No 3)* [2003] 2 AC 1, 576, 581
- Tickell v Read* (1773) 98 ER 617, 323
- Tinkler v Poole* (1770) 5 Burr 2657, 306
- Todorovic v Waller* (1981) 150 CLR 402, 513, 514, 531–2
- Toll Holdings Ltd v Stewart* [2016] FCA 256, 303
- Toohy v Hollier* (1955) 92 CLR 618, 550
- Topp v London Country Bus (South West) Pty Ltd* [1993] 1 WLR 976, 91
- Torette House Pty Ltd v Berkman* (1940) 62 CLR 637, 380
- Town of Port Hedland v Hodder (No 2)* (2012) 43 WAR 383, 199–201
- Toyota Finance Australia Ltd v Dennis* (2002) 58 NSWLR 101, 329–31, 495
- Tozer Kemsley & Millbourn (Australasia) Pty Ltd v Collier's Interstate Transport Service Ltd* (1956) 94 CLR 384, 309
- Trans-Motors v Robertson Buckley & Co* [1970] 2 Lloyd's Rep 224, 313
- Tranco plc v Stockport Metropolitan Borough Council* [2004] 2 AC 1, 422
- Treloar v Wickham* (1961) 105 CLR 102, 538
- Trevorrow v South Australia (No 5)* (2007) 98 SASR 136, 29–30, 31
- Triguboff v Fairfax Media Publications Pty Ltd* [2018] FCA 845, 456
- Trkulja v Google LLC Inc (No 5)* [2012] VSC 533, 478–9
- Trkulja v Google LLC* (2018) 356 ALR 178, 444, 472, 480–1
- Trobridge v Hardy* (1955) 94 CLR 147, 250
- Trustees of the Roman Catholic Church v Ellis* [2007] NSWCA 117, 401
- Trustees of the Roman Catholic Church for the Diocese of Bathurst v Koffman* (1996) Aust Torts Reports 81-399, 62
- Tsouvala v Bini* [1966] SASR 157, 230
- Tuberville v Savage* (1669) 86 ER 684, 245, 249
- Tucker v McCann* [1948] VLR 222, 136
- Tuohey v Freemasons Hospital* (2012) 37 VR 180, 521
- Union Credit Bank Ltd v Mersey Docks and Harbour Board* [1899] 2 QB 205, 309
- Union Transport Finance v British Car Auctions* [1978] 2 All ER 385, 301, 309
- Uren v John Fairfax & Sons Pty Ltd* (1966) 117 CLR 118, 347, 350, 500, 501

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Vabu Pty Ltd v Federal Commissioner of Taxation* (1966) 33 ATR 537, 409  
*Vairy v Wyong Shire Council* (2005) 223 CLR 422, 195, 218  
*Van Gerven v Fenton* (1992) 175 CLR 327, 529  
*Various Claimants v Catholic Welfare Office* [2013] 2 AC 1, 427, 431  
*Varmedja v Varmedja* [2008] NSWCA 177, 347  
*Vassilef v BCG Marine Services (NSW) Pty Ltd* [1980] Qd R 21, 542  
*Vaughan v Menlove* (1837) 3 Bing NC 468, 105, 106  
*Vaughan v Shire of Benalla* (1891) 17 VLR 129, 271  
*Veivers v Connolly* [1995] 2 Qd R 326, 156  
*Venning v Chin* (1974) 10 SASR 299, 3, 230, 231, 235, 344  
*Verryt v Schoupp* [2015] NSWCA 128, 194, 207  
*Viasystems (Tyneside) Ltd v Thermal Transfer (Northern) Ltd* [2006] QB 510, 433  
*Victoria Park Racing & Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479, 383, 438, 484  
*Victorian Railways Commissioner v Coultas* (1888) 13 App Cas 222, 11  
*Vignoli v Sydney Harbour Casino* [1999] NSWSC 1113, 256, 346  
*Villanti v Coles Group Supply Chain Pty Ltd* [2017] NSWSC 1231, 433  
*Villasevil v Pickering* [2001] WASCA 143, 533  
*Vincent v Woolworths Ltd* [2016] NSWCA 40, 128
- Wade Sawmill Pty Ltd v Colenden Pty Ltd* [2007] QCA 455, 356  
*Wagner v International RR Co*, 232 NY 176 (1921), 63  
*Waldron v Baz* [2005] WADC 187, 313  
*Walker v Adelaide City Corporation* [2004] SASC 98, 382  
*Wallace v Kam* (2013) 250 CLR 375, 23, 179  
*Waller v James* (2006) 226 CLR 136, 157  
*Walsh v Ervin* [1952] VLR 361, 391, 392, 393  
*Walter v Selfe* (1851) 64 ER 849, 368–9  
*Ward v Macauley* (1791) 100 ER 135, 297  
*Warner v Riddiford* (1858) 4 CB (NS) 180, 261  
*Watkins v Home Department* [2006] 2 AC 395, 576  
*Watkins v Home Office* [2006] 2 AC 395, 583  
*Watkins v Victoria* (2010) 27 VR 543, 320, 321, 323, 493  
*Watson v Cowen* [1959] Tas SR 194, 273  
*Watson v Marshall* (1971) 124 CLR 621, 250  
*Watson v McClean* (1858) 120 ER 435, 293  
*Watt v Hertfordshire County Council* [1954] 2 All ER 368, 135  
*Watt v Rama* [1972] VR 353, 61, 64–5  
*Waugh v Kippen* (1986) 160 CLR 156, 568  
*Waverley Borough Council v Fletcher* [1996] QB 334, 305  
*Websyte Corporation Pty Ltd v Alexander (No 2)* [2012] FCA 562, 294  
*Wei Fan v South Eastern Sydney Local Health District (No 2)* [2015] NSWSC 1235, 513  
*Weller & Co v Foot and Mouth Disease Research Institute* (1966) 1 QB 569, 86  
*Wenhak v Morgan* (1880) 20 QBD 637, 454  
*Wenn v Evans* (1985) 2 SR (WA) 263, 343  
*Wensley v Persons Unknown* [2014] EWHC 3086, 270  
*Wertheim v Cheel* (1885) 11 VLR 107, 303  
*West v Peters* (1976) 18 SASR 338, 230  
*Western Australia v Ward* (2002) 213 CLR 1, 271  
*Western Credits Pty Ltd v Dragan Motors Pty Ltd* (1973) WAR 184, 356

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Westfield Management Ltd v Perpetual Trustee Co Ltd* (2007) 233 CLR 528, 388
- Westpac Banking Corporation v Royal Tongan Airlines* [1996] Aust Torts Reports 81-403, 313
- Wheat v Lacon & Co* [1966] AC 552, 87
- Wheeler v Riverside Coal Transport Co Pty Ltd* [1964] Qd R 113, 508
- Wheeler v Saunders* [1996] Ch 19, 370
- Whitbread v Rail Corporation (NSW)* [2011] NSWCA 130, 343
- White v Connolly* [1927] St R Qd 75, 343
- White v JF Stone (Lighting & Radio) Ltd* [1939] 2 KB 827, 454
- White v Johnston* [2015] NSWCA 18, 333, 341
- White v South Australia* [2010] SASC 95, 248
- White v Weller; Ex parte White* [1959] Qd R 192, 342
- White v White* [1949] 2 All ER 339, 106
- Whitehouse v Remme* (1988) 64 LGRA 375, 269
- Whitely Ltd v Hilt* [1918] 2 KB 808, 357
- Whitfield v De Lauret & Co Ltd* (1920) 29 CLR 71, 501, 503
- Whittlesea City Council v Abbatangelo* [2009] VSCA 188, 269
- Wiatr v CSR Ltd* [2002] WASC 77, 501
- Wilkie v Blacktown City Council* [2002] NSWCA 284, 380
- Willey v Synan* (1937) 57 CLR 200, 305
- William Holyman & Sons Pty Ltd v Marine Board of Launceston* (1929) 24 Tas LR 64, 354
- Williams v Birmingham Battery & Metal Co* [1899] 2 QB 338, 546
- Williams v Holland* (1833) 131 ER 848, 228, 229
- Williams v Milotin* (1957) 97 CLR 465, 3, 152, 229, 230–1, 234, 236
- Williams v Minister, Aboriginal Land Rights Act 1983* (New South Wales Supreme Court, 25 August 1993), 28
- Williams v Minister, Aboriginal Land Rights Act 1983 (No 1)* (1997) 35 NSWLR 497, 28
- Williams v Minister, Aboriginal Land Rights Act 1983* [1999] Aust Torts Reports 81-526, 230–1
- Williams v Minister, Aboriginal Land Rights Act 1983* [2000] Aust Torts Reports 81-578, 28
- Wilson v Bauer Media Pty Ltd* [2017] VSC 521, 450, 474, 475
- Wilson v Ferguson* [2015] WASC 15, 484
- Wilson v Horne* [1999] Aust Torts Reports 81-504, 230
- Wilson v Lombank Ltd* [1963] 1 WLR 1294, 17, 297
- Wilson v Marshall* [1982] Tas R 287, 296
- Wilson v New South Wales* [2010] NSWCA 333, 284, 341
- Wilson v Nilepac Pty Ltd* [2011] NSWCA 63, 136
- Wilson v Pringle* [1987] QB 237, 239
- Wilsons & Clyde Coal Co v English* [1938] AC 57, 94
- Wilton v Commonwealth Trading Bank of Australia* [1973] 2 NSWLR 644, 293, 344
- Windeyer v Riddell* (1847) 1 Legge 295, 289
- Windridge Farm Pty Ltd v Grassi* (2011) 254 FLR 87, 270, 349
- Winky Pop Pty Ltd v Mobil Refining Australia Pty Ltd* [2015] VSC 348, 508, 511
- Winky Pop Pty Ltd v Mobil Refining Australia Pty Ltd* [2016] VSCA 187, 349
- Winnipeg Child and Family Services (Northwest Area) v G* (1997) 152 DLR (4th) 193, 334
- Winterbottom v Lord Derby* (1867) LR 2 Ex 316, 393
- Woodley v Woodley* [2018] WASC 333, 278
- Woolcock Street Investments Pty Ltd v CDG Pty Ltd* (2004) 216 CLR 515, 69, 70
- Woollerton & Wilson Ltd v Richard Costain Ltd* [1970] 1 WLR 411, 276, 554
- Woolworths Ltd v Crotty* (1942) 66 CLR 603, 159

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)*Woolworths Ltd v Lawlor* [2004] NSWCA 209, 527*Workcover Queensland v Amaca Pty Ltd* (2010) 241 CLR 420, 544*Workman v Cowper* [1961] 2 QB 143, 325*Wroth v Tyler* [1974] Ch 30, 555*Wynbergen v Hoyts Corporation Pty Ltd* (1997) 72 ALJR 65, 210*Wynn v NSW Insurance Ministerial Corporation* (1995) 184 CLR 485, 519, 533, 534, 536–7*Wyong Shire Council v Shirt* (1980) 146 CLR 40, 21, 37, 125–6, 129, 196*X v Sydney Children's Hospital Network* (2013) 85 NSWLR 294, 334, 337, 338, 339*XL Petroleum (NSW) Pty Ltd v Caltex Oil (Australia) Pty Ltd* (1985) 155 CLR 448, 347, 348, 351, 415*Yakult Australia Pty Ltd v National Union of Workers* [2018] VSC 151, 390*Yates v Jones* [1990] Aust Torts Reports 81-009, 188*Yates v Mobile Marine Repairs Pty Ltd* [2007] NSWSC 1463, 512*Yearworth v North Bristol NHS Trust* [2010] QB 1, 294*York Brothers (Trading) Pty Ltd v Commissioner of Main Roads* (1983) 1 NSWLR 391, 391*Yorkshire Dale Steamship Co v Minister of War Transport* [1942] AC 691, 161*Youl v Harbottle* (1791) 170 ER 81, 309*Young v Wheeler* [1987] Aust Torts Reports 80-126, 272, 332, 496*Z v United Kingdom* [2001] 2 FLR 612, 16*Zanker v Vartzokas* (1988) 34 A Crim R 11, 245, 246, 247, 257*Zecevic v Director of Public Prosecutions (Vic)* (1987) 162 CLR 645, 320, 321, 492, 494*Zheng v Cai* (2009) 239 CLR 446, 537*Zimitat v Douglas* [1979] Qd R 454, 264, 348*Zorom Enterprises Pty Ltd v Zabow* (2007) 71 NSWLR 354, 406, 520*Zuijs v Wirth Brothers Pty Ltd* (1955) 93 CLR 561, 406



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

## TABLE OF STATUTES

## Australia

*Administrative Decisions (Judicial Review) Act*

1977

s 16(1), 584

*Age Discrimination Act 2004*, 14*Australian Consumer Law*, 553

s 18, 452

s 232, 552

s 236, 565

*Australian Human Rights Commission Act 1986*, 14*Civil Dispute Resolution Act 2011*, 33*Competition and Consumer Act 2010*

s 87E, 501, 504

s 87ZB, 501, 504

sch 2, 552, 565

Constitution, 584

*Crimes Act 1914*

s 3T, 288

s 89(1), 268

*Crimes (Aviation) Act 1991*

s 34, 342

s 49, 342

*Criminal Code Act 1995*

div 6.1, 398

*Damage by Aircraft Act 1999*

s 10, 348

s 11, 348

*Defence Force Discipline Act 1982*

pt VII div 3, 263

*Disability Discrimination Act 1992*, 14*Federal Court Rules 1979*

r 11.2, 229

*Health Insurance Act 1973*, 538

s 18, 538

*Health and Other Services (Compensation) Act*

1995, 538

*Insurance Contracts Act 1984*

s 66, 415

*Legal Services Directions 2017*

app E, 585

app E cl 6, 585

*Migration Act 1958*, 423

s 4AA(1), 568

s 189, 252, 253

s 501, 252

*National Consumer Credit Protection Act 2009*

sch 1, 495

*National Credit Code*

pt 5 div 2, 495

*National Disability Insurance Scheme Act 2013*, 41

ss 21–5, 41

*Privacy Act 1988*, 483*Public Order (Protection of Persons and Property)**Act 1971*

ss 11–12, 268

s 20, 268

*Racial Discrimination Act 1975*, 14*Safety, Rehabilitation and Compensation Act 1988*, 40*Sex Discrimination Act 1984*, 14*Social Security Act 1991*, 538

s 17(1), 538

s 1178, 539

s 1184, 539

*Trade Marks Act 1995*

s 148, 570

*Trade Practices Act 1974*

s 52, 452

## AUSTRALIAN CAPITAL TERRITORY

*Civil Law (Wrongs) Act 2002*, 3

s 18, 442

s 27, 160

s 40, 103

s 41(2), 104

s 42, 107, 122

s 43, 21

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)*Civil Law (Wrongs) Act 2002* (cont.)

- s 43(1), 21
- s 43(1)(b), 104, 127
- s 43(1)(c), 107
- s 43(2), 22, 129
- s 45(1), 22
- s 45(2), 173
- s 46, 142
- s 102(2), 575
- s 109, 120
- s 111(1), 120
- s 112, 120
- s 113, 120
- s 115, 439
- s 116, 458
- s 120, 441
- s 121, 455
- s 121(5), 456
- s 122, 456
- ss 125–7, 476
- s 132, 476
- s 133, 454
- s 134, 457
- s 136, 460
- s 137, 463
- s 138, 464
- s 139, 466
- s 139A, 469
- s 139A(2), 470
- s 139A(3), 470
- s 139A(4), 470
- s 139B(1), 472
- s 139B(5), 472
- s 139C, 472
- s 139D, 473
- s 139 H, 475

*Civil Law (Wrongs) Amendment Act 2006*, 3*Court Procedures Rules 2006*

- r 406, 229

*Criminal Code*

- s 38, 331

*Defamation Act 1901*, 439*Defamation Act 2005*

- ss 13–15, 476

*Education Act 2004*

- s 7(4), 342

*Education Ordinance 1937*

- s 8, 95
- s 9, 95

*Emergencies Act 2004*

- s 34, 325

*Enclosed Lands Protection Act 1943*

- s 4, 268

*Human Rights Act 2004*, 14*Limitation Act 1969*

- s 14B, 441

*Limitation Act 1985*

- s 21B, 441

*Medical Treatment (Health Directions) Act 2006*

- pt 2, 338

*Powers of Attorney Act 2006*, 338*Road Transport (Third Party Insurance) Act 2008*,

40

*Sale of Goods Act 1954*

- s 29(2), 309

*Supreme Court Act 1933*

- s 22, 34
- s 34, 352

*Transplantation and Anatomy Act 1978*, 335*Trespass on Territory Land Act 1932*

- s 4, 268

*Victims of Crime (Financial Assistance) Act 1983*,

42

*Workers Compensation Act 1951*, 40

## NEW SOUTH WALES

*Aborigines Protection Act 1909*, 28*Access to Neighbouring Land Act 2000*

- ss 7–8, 276

*Casino Control Act 1992*, 240*Children and Young Persons (Care and Protection)**Act 1998*

- s 174, 338

*Civil Liability Act 2002*, 3, 406, 417

- s 3, 406
- s 3B, 104, 214, 419
- s 3B(1)(a), 346, 501
- s 5, 103
- s 5A, 104, 419
- s 5B, 21, 123
- s 5B(1), 21
- s 5B(1)(b), 104, 127
- s 5B(1)(c), 107
- s 5B(2), 22, 129
- s 5C, 145
- s 5D, 168, 171
- s 5D(1), 22
- s 5D(1)–(3), 167



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- s 5E, 142, 170, 171
- s 5F, 216
- s 5G, 216
- s 5Q, 418–19, 421, 432
- s 5Q(2), 419
- s 5R, 196, 197
- s 5T, 551
- s 12, 551
- s 15(2)(b), 527
- s 15(3), 528
- s 15B, 530
- s 15B(1), 530
- s 15C, 520
- s 16, 540
- s 16(1), 539
- s 21, 4, 347, 501, 504
- s 30, 81
- s 32, 11, 80
- s 32(1), 184
- s 41, 120
- s 44, 120
- s 45, 120
- s 49, 111
- s 50, 118
- s 51(2), 215
- s 52, 317, 323, 331
- s 52(2), 331
- s 52(2)(d), 325
- s 54, 219–20
- s 56, 222
- s 58C, 221
- s 72, 276
- s 73, 277, 348
- Civil Procedure Act 2002*
- s 93, 356
- Claims Against the Government Act 1897*, 89
- Compensation to Relatives Act 1897*, 159
- s 3(1), 159
- s 4(1), 548
- s 4(2), 547
- s 5, 548
- s 6B(1), 548
- s 7(4), 547
- Conveyancing Act 1919*
- s 88 K, 276, 352
- Crimes Act 1900*
- s 61HE(6), 337
- s 357E, 287, 288
- s 357H, 287, 288
- Defamation Act 1974*, 439
- s 16, 462
- Defamation Act 2005*, 3, 504
- s 3, 439
- s 4, 442, 458
- s 8, 441
- s 9, 455
- s 9(5), 456
- s 10, 456
- s 20, 476
- s 23, 454
- s 24, 457
- s 26, 460
- s 27, 463
- s 28, 464
- s 29, 466
- s 30, 469
- s 30(2), 470
- s 30(3), 470
- s 30(4), 470
- s 31(1), 472
- s 31(5), 472
- s 32, 472
- s 33, 473
- s 37, 415, 475
- Dust Diseases Tribunal Act 1989*
- s 12B, 544
- Education Act 1990*
- s 35(2A), 342
- s 47(h), 342
- Employees Liability Act 1991*
- s 3, 399
- s 3(1)(a), 415
- s 3(1)(b), 415
- s 5(a), 415
- Encroachment of Buildings Act 1922*
- s 3(2), 352
- Evidence Act 1995*
- s 140, 162
- Fire Brigades Act 1989*
- s 13, 325
- s 16, 325
- Guardianship Act 1987*
- s 37, 340
- Human Tissue Act 1983*, 335
- Inclosed Lands Protection Act 1901*
- s 4, 268
- Independent Commission Against Corruption Act 1988*, 578

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Interpretation Act 1987*  
s 21 C, 547
- Landlord and Tenant Act 1899*  
s 8, 353
- Law Enforcement (Powers and Responsibilities) Act 2002*  
s 9, 285, 286, 288  
s 10, 285, 286, 288  
s 10(1), 285
- Law Reform (Marital Consortium) Act 1984*  
s 3, 550
- Law Reform (Miscellaneous Provisions) Act 1944*,  
159  
s 2, 159
- Law Reform (Miscellaneous Provisions) Act 1965*  
s 10, 210  
s 13, 551
- Law Reform (Vicarious Liability) Act 1983*  
s 8, 405
- Limitation Act 1969*, 28  
s 6A, 220  
s 50C, 35
- Liquor Act 2007*, 370
- Local Government Act 1919*  
s 241, 386
- Local Government Act 1993*  
s 191, 285
- Motor Accidents Act 1988*  
s 74, 207  
s 76, 212  
s 81A, 347
- Motor Accidents Compensation Act 1999*  
s 7A, 210  
s 112, 402–3  
s 140, 212  
s 144, 504
- Motor Accidents Injuries Act 2017*, 40
- Prevention of Cruelty to Animals Act 1979*  
s 24E, 285
- Residential Tenancies Act 1997*  
s 37, 331
- Residential Tenancies Act 2010*  
s 120, 331
- Sale of Goods Act 1923*  
s 28(2), 309
- Supreme Court Act 1970*  
s 68, 352  
s 85, 34
- Threatened Species Conservation Act 1995*, 389
- Trees (Disputes Between Neighbours) Act 2006*  
s 5, 332
- Uncollected Goods Act 1995*  
s 34, 308
- Uniform Civil Procedure Rules 2005*  
r 14.7, 229
- Victims Support and Rehabilitation Act 1996*, 42  
s 19(1)–(2), 30
- Workers Compensation Act 1987*  
s 151R, 347, 504
- Workplace Injury Management and Workers Compensation Act 1998*, 40

## NORTHERN TERRITORY

- Aboriginals Ordinance 1918*  
s 6, 27  
s 7, 27  
s 16, 27
- Advance Personal Planning Act 2013*  
pt 2, 338
- Compensation (Fatal Injuries) Act 1974*  
s 7(2), 160  
s 10(3)(f), 159
- Crimes (Victims Assistance) Rules 2002*, 42
- Criminal Code*  
s 43BD, 317
- Criminal Code Act 1983*  
sch 1, 317
- Criminal Code Act 1993*  
s 27(k), 331
- Defamation Act 1938*, 439
- Defamation Act 2006*, 3  
s 2, 439  
s 3, 458  
s 5, 442  
s 7, 441  
s 8, 455  
s 8(5), 456  
s 9, 456  
ss 12–14, 476  
s 19, 476  
s 20, 454  
s 21, 457  
s 23, 460  
s 24, 463  
s 25, 464  
s 26, 466  
s 27, 469  
s 27(2), 470

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- s 27(3), 470
  - s 27(4), 470
  - s 28(1), 472
  - s 28(5), 472
  - s 29, 472
  - s 30, 473
  - s 34, 475
  - Emergency Medical Operations Act 1973*
    - s 2, 340
    - s 3, 338, 340
  - Fire and Emergency Act 1996*
    - s 23(3), 325
  - Juries Act 1963*
    - s 7, 34
  - Law of Property Act*
    - ss 163–4, 276
    - ss 163–6, 352
  - Law Reform (Miscellaneous Provisions) Act 1956*
    - pt VIIIA, 401
    - s 22A, 399
  - Limitation Act 1981*
    - s 5A, 220
    - s 12(2)(b), 441
  - Motor Accidents Compensation Act 1979*, 40
  - Natural Death Act*, 338
  - Personal Injuries (Liabilities and Damages) Act 2003*, 3
    - s 4, 104
    - s 19, 347
  - Police Administration Act 1978*
    - s 119, 288
  - Residential Tenancies Act 1999*
    - pt 9, 331
  - Sale of Goods Act 1972*
    - s 28(2), 309
  - Supreme Court Rules 1987*
    - r 13.02, 229
  - Transplantation and Anatomy Act 1979*, 335
  - Trespass Act 1987*
    - ss 5–8, 268
    - s 11, 268
  - Workers Rehabilitation and Compensation Act 1986*, 40
- QUEENSLAND**
- Acts Interpretation Act 1974*
    - s 32DA(5), 547
    - s 36, 547
  - Animal Care and Protection Act 2001*
    - s 122, 285
  - Civil Liability Act 2003*, 3
    - s 5, 104, 154, 214
    - s 9, 21
    - s 9(1), 21
    - s 9(1)(b), 104, 127
    - s 9(1)(c), 107
    - s 9(2), 22, 129
    - s 11(1), 22
    - s 12, 142
    - s 34, 120
    - s 36(1), 120
    - s 37, 120
    - s 46, 111
    - s 52, 346, 347, 501, 504
    - s 54, 551
    - s 56, 520
    - s 58(1)(a), 550
    - s 59(1)(c), 528
    - s 59(3), 528
    - s 73, 34
    - sch 2, 103
  - Civil Proceedings Act 2011*
    - s 60, 519, 537
    - s 63, 547
    - s 65(1), 548
    - s 65(2), 548
    - s 67, 551
    - s 67(6), 551
    - s 67(7), 547
    - s 70, 551
    - ss 80–2, 356
  - Criminal Code*
    - s 207, 283
    - s 245, 333
    - ss 268–70, 343
    - ss 270–8, 317
    - s 272, 343
    - s 273, 323
    - s 276, 331
    - s 277, 325
    - s 281, 342
    - s 286, 328
  - Criminal Code Act 1899*
    - s 245, 243, 244
    - s 269, 244
    - sch 1, 317
  - Criminal Offence Victims Act 1995*, 42
  - Defamation Act 1889*, 439

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)*Defamation Act 2005*, 3

- s 3, 439
- s 4, 442, 458
- s 8, 441
- s 9, 455
- s 9(5), 456
- s 10, 456
- ss 13–15, 476
- s 20, 476
- s 23, 454
- s 24, 457
- s 26, 460
- s 27, 463
- s 28, 464
- s 28(3), 470
- s 29, 466
- s 30, 469
- s 30(2), 470
- s 30(4), 470
- s 31(1), 472
- s 31(5), 472
- s 32, 472
- s 33, 473
- s 37, 475

*Disposal of Uncollected Goods Act 1967*

- s 15, 308

*Domestic Violence and Family Protection Act 1989*,  
264*Electricity Act 1994*

- s 138, 285

*Fire and Emergency Services Act 1990*

- s 53(2), 325

*Guardianship and Administration Act 2000*

- s 63, 340

*Human Rights Act 2019*, 14*Invasion of Privacy Act 1971*, 285*Juries Act 1927*

- s 5, 34

*Law Reform Act 1995*

- s 10(5), 551

*Limitation of Actions Act 1974*

- s 10AA, 441
- s 11A, 220

*Motor Accident Insurance Act 1994*, 40

- s 55, 347

*Neighbourhood Disputes Resolution Act 2011*

- s 54, 332

*Police Powers and Responsibilities Act 2000*

- s 9, 288

*Powers of Attorney Act 1998*

- ch 3, 338

*Property Law Act 1974*

- s 147, 353
- s 180, 276, 352

*Residential Tenancies and Rooming Accommodation  
Act 2008*

- ss 129–204, 271
- s 353, 331

*Succession Act 1981*

- s 66(2A), 544
- s 66(2B), 544

*Summary Offences Act 1953*

- s 17A, 268

*Summary Offences Act 2005*

- s 11, 268

*Supreme Court Act 1995*

- s 18(1), 159
- s 244, 352

*Transplantation and Anatomy Act 1979*, 335*Uniform Civil Procedure Rules 1999*

- r 149(1), 229

*Victims of Crime Assistance Act 2009*

- ch 3 pt 16, 244

*Workers' Compensation and Rehabilitation Act*

- 2003, 40, 58
- s 309, 347

## SOUTH AUSTRALIA

*Advance Directive Act 2013*, 338*Civil Liability Act 1936*, 3, 439

- s 3, 103, 547
- s 24, 548
- s 25(1), 548
- s 27(1), 548
- s 28, 550
- s 29, 550
- s 30, 159
- s 31, 107
- s 31(1), 122
- s 31(2), 111
- s 32, 21
- s 32(1), 21
- s 32(1)(b), 104, 127
- s 32(1)(c), 107
- s 32(2), 22, 129
- s 33, 81, 201
- s 34(1), 22
- s 34(2), 173

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- s 35, 142
- s 36, 216
- s 37, 216
- s 37(3), 216
- s 40(b), 122
- s 42, 120
- s 44, 196
- s 45, 551
- s 47, 205
- s 47(2), 205
- s 47(6), 212
- s 53, 81
- s 54(3), 160, 551
- s 56A, 520
- s 58(4), 526
- s 59, 399
- s 62, 276
- s 63, 277
- s 65, 550
- s 66, 548
- Consent to Medical Treatment and Palliative Care Act 1995*, 333
  - s 8, 338
  - s 13, 338
- Defamation Act 2005*, 3
  - s 3, 439
  - s 4, 442, 458
  - s 9, 455
  - s 9(5), 456
  - s 10, 456
  - ss 13–15, 476
  - s 20, 476
  - s 21, 454
  - s 24, 457, 460
  - s 25, 463
  - s 26, 464
  - s 27, 466
  - s 28, 469
  - s 28(2), 470
  - s 28(3), 470
  - s 28(4), 470
  - s 29(1), 472
  - s 29(5), 472
  - s 30, 472
  - s 31, 473
  - s 35, 475
- Family Relationships Act 1975*
  - s 11, 547
  - s 11A, 547
- Fire and Emergency Services Act 2005*
  - s 59, 325
- Landlord and Tenant Act 1936*
  - s 6, 353
- Liability Act 1936*
  - ss 61–2, 348
- Limitation of Actions Act 1936*, 431
  - s 35, 230
  - s 36, 230
  - s 37, 441
  - s 48(3), 430, 431
- Liquor Licensing Act 1997*, 370
- Motor Vehicles Act 1959*, 40
  - s 113A, 347
- Northern Territory Aboriginals Act 1910*
  - s 2, 24
- Police Act 1998*
  - s 65, 416
- Residential Tenancies Act 1995*
  - s 95, 331
- Return to Work Act 2014*, 40
- Sale of Goods Act 1895*
  - s 25(2), 309
- Summary Offences Act 1953*
  - s 17, 268
  - s 72B, 288
- Supreme Court Act 1935*
  - s 30, 352
- Supreme Court Civil Rules 2006*
  - r 98(2), 229
- Survival of Causes of Actions Act 1940*
  - s 3(2), 544
  - s 3(3), 544
- Transplantation and Anatomy Act 1983*, 335
- Victims of Crime Act 2001*, 42

## TASMANIA

- Administration and Probate Act 1935*
  - s 27(3A), 544
  - s 27(3B), 544
- Civil Liability Act 2002*, 3
  - s 3B, 104, 214
  - s 3B(1)(a), 346
  - s 10, 104
  - s 11, 21
  - s 11(1), 21
  - s 11(1)(b), 104, 127
  - s 11(1)(c), 107
  - s 11(2), 22, 129

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

- Civil Liability Act 2002* (cont.)
- s 13(1), 22
  - s 14, 142
  - s 25, 520
  - s 26, 551
  - s 28D, 550
  - s 32, 81
  - s 34, 80
  - s 37, 120
  - s 39, 120
  - s 40(1), 120
  - s 41, 120
  - s 42, 120
- Conveyancing and Law of Property Act 1884*
- s 84, 276
  - s 84J, 352
- Criminal Code*
- s 45, 331
  - s 46, 317
- Criminal Code Act 1924*
- sch 1, 317
- Damage by Aircraft Act 1963*
- s 3, 276
  - s 4, 277, 348
- Defamation Act 1957*, 439
- Defamation Act 2005*, 3
- s 3, 439
  - s 4, 458
  - s 6, 442
  - s 8, 441
  - s 9, 455
  - s 9(5), 456
  - s 10, 456
  - ss 13–15, 476
  - s 20, 476
  - s 20A, 441
  - s 23, 454
  - s 24, 457
  - s 26, 460
  - s 27, 463
  - s 28, 464
  - s 29, 466
  - s 30, 469
  - s 30(2), 470
  - s 30(3), 470
  - s 30(4), 470
  - s 31(1), 472
  - s 31(5), 472
  - s 32, 472
- s 33, 473
  - s 37, 475
- Education Act 1994*
- s 82A, 342
- Fatal Accidents Act 1934*, 551
- s 3, 547
  - s 5, 548
  - s 6, 548
  - s 8(1), 548
  - s 10(1)(b), 551
- Fire Service Act 1979*
- s 29, 325
- Guardianship and Administration Act 1995*
- s 40, 340
- Human Tissue Act 1985*, 335
- Land Titles Act 1980*
- s 110(4)–(12), 276
- Landlord and Tenant Act 1935*
- s 69, 353
- Limitation Act 1974*
- s 5A, 35
- Motor Accidents (Liabilities and Compensation) Act 1973*, 40
- Police Offences Act 1935*
- ss 14A–14D, 268
  - s 19A, 268
- Police Regulation Act 1898*
- s 52, 416
- Relationships Act 2003*
- ss 4–6, 547
- Sale of Goods Act 1896*
- s 30(2), 309
- Stolen Generations of Aboriginal Children Act 2006*
- s 4, 31
  - s 5, 31
- Supreme Court Civil Procedure Act 1932*
- s 11, 352
  - ss 27–29, 34
- Supreme Court Rules 2000*
- r 227(1), 229
- Tortfeasors and Contributory Negligence Act 1954*
- s 4(1), 209
- Victims of Crime Assistance Act 1976*, 42
- Workers Rehabilitation and Compensation Act 1988*, 40
- Wrongs Act 1954*
- s 4(4), 551

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

## VICTORIA

*Accident Compensation Act 1985*, 40

s 134AB, 41

s 135A(7)(c), 347

*Administration and Probate Act 1958*, 545

s 29(1), 543–4

s 29(2), 544

s 29(2)(c)(i), 545

s 29(2A), 544

*Charter of Rights and Responsibilities 2006*, 14*Civil Procedure Act 2010*

s 7, 33

*Country Fire Authority Act 1958*

s 30, 325

*Crimes Act 1958*

s 247G, 294

s 459A, 288

*Defamation Act 2005*

s 3, 439

s 4, 458

s 6, 442

s 8, 441

s 9, 455

s 9(5), 456

s 10, 456

ss 13–15, 476

s 20, 476

s 23, 454

s 24, 457

s 26, 460

s 27, 463

s 28, 464

s 29, 466

s 30, 469

s 30(2), 470

s 30(3), 470

s 30(4), 470

s 31(1), 472

s 31(5), 472

s 32, 472

s 33, 473

s 35(2), 500

s 37, 475

*Education and Training Reform Regulations 2007*

reg 14, 342

*Emergency Management Act 1986*, 567, 568

s 10(1), 567

*Goods Act 1958*

s 31, 309

*Guardianship and Administration Act 1986*

s 42A, 340

*Human Tissue Act 1982*, 335, 339*Judicial Proceedings Reports Act 1958*, 485*Limitation of Actions Act 1958*

s 5(AAA), 441

s 27F, 35

s 27P, 220

*Liquor Control Reform Act 1988*, 370*Medical Treatment Act 1988*

s 5B, 338

s 5B(2), 338

*Medical Treatment Planning and Decisions Act*

2016, 339

*Occupational Health and Safety Regulations 2007*

reg 3.1.2, 572

*Occupiers' Liability Act 1983*, 60, 87, 88*Roads Management Act 2004*

s 40, 574

*Summary Offences Act 1966*

s 9(1)(d), 268

*Supreme Court Act 1958*

s 38, 352

*Supreme Court Act 1986*

s 37, 552

s 79, 353

*Supreme Court (General Civil Procedure) Rules*  
1996

r 13.02, 229

*Supreme Court (General Civil Procedure) Rules 2005*

r 21.03, 356

*Supreme Court (General Civil Procedure) Rules 2015*

r 47.02, 34

*Transport Accident Act 1986*, 40, 504

s 93(7), 347

*Victims of Crime Assistance Act 1996*, 42*Workplace Injury Rehabilitation and Compensation*  
*Act 2013*

s 340(c), 504

*Wrongs Act 1958*, 3, 39, 439, 539

pt IIA, 60, 87, 88

s 14G, 111, 220

s 16, 159, 186, 545

s 17(2), 547

s 18, 548, 551

s 19(2)–(5), 551

s 19A, 549

s 19B, 549

s 24AA, 558

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)*Wrongs Act 1958* (cont.)

- s 24AB, 558
- s 28A, 519, 537
- s 28B, 526
- s 28C(1), 515, 532
- s 28C(2), 515, 533
- s 28C(2)(a), 346
- s 28F, 551
- s 28IA, 527, 530
- s 28IA(1), 527
- s 28IA(2), 528
- s 28IB, 529
- s 28ID, 530
- s 28IE, 530
- s 28LB, 540
- s 28LE, 540
- s 28LF, 540
- ss 29–31, 348
- s 30, 276
- s 31, 276, 277
- s 43, 103
- s 45, 104, 214
- s 48, 21, 37
- s 48(1), 21
- s 48(1)(b), 104, 127
- s 48(1)(c), 107
- s 48(2), 22, 129
- s 48(3), 128
- s 50, 140
- s 51(1), 22
- s 52, 142
- s 58(b), 122
- s 61, 417, 418, 432
- s 72, 47
- s 73, 47
- s 74(1)(a), 184
- s 79, 120
- s 80(1), 120
- s 84, 573
- s 84(1), 120

*Wrongs Amendment Act 2015*, 39

## WESTERN AUSTRALIA

*Civil Liability Act 2002*, 3

- s 3A, 104, 214
- s 3A(1), 346
- s 5B, 21
- s 5B(1), 21

s 5B(1)(b), 104, 127

s 5B(1)(c), 107

s 5B(2), 22, 129

s 5C(1), 22

s 5D, 142

s 5K, 200

s 5U, 120

s 5Z, 120

s 11(1), 551

*Conservation and Land Management Act 1984*

s 57, 386, 387

s 132, 386–7

*Criminal Code*

s 70A, 268

ss 245–7, 343

ss 247–55, 317

s 253, 331

s 258, 342

*Criminal Code Act Compilation Act 1913*

app B, 317

*Criminal Injuries Compensation Act 2003*, 42*Criminal Investigation Act*

s 33, 288

*Damage by Aircraft Act 1964*

s 4, 276, 277

s 5, 348

*Defamation Act 2005*, 3

s 3, 439

s 4, 458

s 6, 442

s 8, 441

s 9, 455

s 9(5), 456

s 10, 456

ss 13–15, 476

s 20, 476

s 23, 454

s 24, 457

s 26, 460

s 27, 463

s 28, 464

s 29, 466

s 30, 469

s 30(2), 470

s 30(3), 470

s 30(4), 470

s 31(1), 472

s 31(5), 472



O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

s 32, 472

s 33, 473

s 37, 475

*Fatal Accidents Act 1959*

s 6(1), 547

s 6(1B), 548

s 7, 548

s 9(1), 548

sch 2 cl (h), 547

*Fire Brigades Act 1942*

s 34, 325

*Guardianship and Administration Act 1990*

s 110P, 338

s 110ZH, 340

*Human Tissue and Transplant Act 1982*, 335*Interpretation Act 1984*

s 13A(3), 547

*Law Reform (Contributory Negligence and  
Tortfeasors' Contribution) Act 1947*

s 4(2)(a), 551

*Limitation Act 2005*

s 6A, 220

s 15, 441

*Motor Vehicle (Third Party Insurance) Act 1943*, 40*Residential Tenancies Act 1987*

s 80, 331

*Rules of the Supreme Court 1971*

O 28 r 8(1), 229

*Sale of Goods Act 1895*

s 25(2), 309

*School Education Regulations 2000*

reg 40(2), 342

*Supreme Court Act 1935*

s 25, 352

s 42, 34

*Workers' Compensation and Injury Management  
Act 1981*, 40

## Canada

*Bill of Rights 1960*, 14

## New Zealand

*Bill of Rights Act 1990*, 14, 16*Harmful Digital Communications Act 2015*, 487

## United Kingdom

*Common Law Procedure Act 1852*, 228*Defamation Act 2013*, 438*Fatal Accidents Act 1846*, 158, 545, 547, 548*Fatal Accidents Act 1976*, 158*Human Rights Act 1998*, 14, 16, 378*Law Reform (Miscellaneous Provisions) Act 1934*, 158*Occupiers' Liability Act 1957*, 87*Supreme Court of Judicature Act 1873*, 229

## United States of America

*Alien Tort Claims Act 1789*, 13*Bill of Rights 1791*, 14

Constitution

First Amendment, 438

## International Instruments

*African Charter on Human and Peoples' Rights*, 16*American Convention on Human Rights*, 16*Convention for the Protection of Human Rights  
and Fundamental Freedoms*, 16*European Convention on Human Rights*, 14

art 6, 16

*International Covenant on Civil and Political  
Rights*, 14

art 7, 16

art 10, 16

*Universal Declaration of Human Rights*, 14

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

# ABOUT THE AUTHORS

**Joanna Kyriakakis** is a Senior Lecturer at the Law School, Monash University, and Deputy Director of the Castan Centre for Human Rights Law. Joanna teaches and coordinates the Torts Law subjects for the LLB and JD degrees, as well as teaching into the elective programs in the areas of International Criminal Law and Animal Law. Her research to date has focused upon corporate accountability for human rights abuses and international criminal law, publishing on a range of related issues in leading books and journals.

**Tina Popa** is a Lecturer at the Graduate School of Business and Law at RMIT University. Tina teaches and coordinates the Law of Torts and Health Law subjects in the Juris Doctor program. Tina's research interests are in tort law, medical law and alternative dispute resolution, with her doctoral research exploring the challenges in litigation and mediation of medical negligence disputes. She has been a Visiting Scholar at the University of Ottawa, Canada, and the University of Antwerp, Belgium, and has presented her research at national and international law conferences. Tina's research has been published in leading Australian tort law and medical law journals. Tina has extensive experience in the legal industry and is currently undertaking research projects in medical law.

**Francine Rochford** is Director of Teaching and Learning and Director of Regional and Online Programs in the School of Law and an Associate Professor in the Law School at La Trobe University. She has researched and written extensively on civil law matters, particularly in relation to the law of torts and the law of contracts. Her interests are the law and policy relating to water allocation and the law of higher education. She has been a Visiting Researcher, Centre for Water Law, Policy and Science, University of Dundee, Scotland, a Visiting Scholar, University of Limerick School of Law and an International Visiting Environmental Law Scholar at Lewis and Clark Law School in Portland, Oregon. She has been involved in a grant headed by the University of Melbourne: the Victorian Centre for Climate Change Adaptation Research project, 'Governance models for adaptation and natural disaster risk management'.

**Natalia Szablewska** is a Senior Lecturer at the School of Law and Justice, Southern Cross University and an Adjunct Professor at English Language Based Bachelor of Law, Royal University of Law and Economics (Cambodia). Natalia has over 15 years of professional experience in public policy, research and academia in five countries, and she teaches Torts, Public International Law and International Humanitarian Law. She has published extensively for academic and non-academic audiences, and her academic work has appeared in leading law and social sciences journals. Natalia is on the Editorial Boards of the *International Journal of Refugee Law* (OUP), *Journal of International Humanitarian Legal Studies* (Brill) and *Studies in Public Law* (AMU). Natalia practised human rights

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

law in an NGO in Russia (Russian Justice Initiative), litigating before the European Court of Human Rights.

**Xiaobo Zhao** is a Lecturer at the School of Law and Justice, University of Southern Queensland (USQ). He worked as a lecturer in law and legal consultant for several years before taking up his current position at USQ. He has taught across a range of law courses for LLB and LLM programs since 2012. He is the course leader of Torts, Water Resource Law and the Sustainable Environmental Governance Research Programme at USQ. He is a Senior Research Fellow of the Research Institute of Environmental Law (RIEL), Wuhan University. His research interests focus on comparative environmental law, contaminated land law and torts. He is also the author and co-author of several law books, peer-reviewed journal articles and book chapters.

**Jason Taliadoros** is a Senior Lecturer and Director of Teaching at the Deakin Law School, Deakin University. Jason teaches and coordinates Torts Law units for the LLB degree, elective units in Personal Injuries and Restitution for the LLB, and Research Methods units for the LLM degree. His research focuses on legal and religious history and personal injuries, and he has published in these areas in leading books and journals. Most recently, Jason has published articles in the *Cleveland State Law Review* and the *Journal of Legal History* on the origins of punitive damages. He has worked in private practice as a legal practitioner in the areas of personal injuries, workers' compensation, and insurance and commercial litigation.

**Darren O'Donovan** is Senior Lecturer at La Trobe Law School, Melbourne. Darren holds a BCL (Hons), and a PhD from University College Cork, Ireland, where he also lectured from 2009 to 2012. Darren's main specialisation is in administrative law. He has written extensively on rights, oversight and public administration, including the book *Law and Public Administration in Ireland* (co-authored with Dr Fiona Donson). Much of Darren's work has reflected upon the centrality of non-judicial review bodies and first-instance decision-makers to delivering administrative justice. Reflecting these themes, Darren is currently undertaking research projects in relation to the National Disability Insurance Scheme.

**Lowell Bautista** is Senior Lecturer and Head of Students at the School of Law and a Staff Member at the Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong. Lowell is recognised for his expertise in the Law of the Sea, particularly in the area of territorial and maritime disputes in the Asia-Pacific including on the South China Sea. He is a lawyer with over 10 years of experience in legal and policy research, litigation and consultancy. He holds a BA and LLB degrees from the University of the Philippines, an LLM degree from Dalhousie University, Nova Scotia, and a PhD from the University of Wollongong. His areas of research include territorial and maritime boundary issues in the Asia-Pacific and the South China Sea, Philippine maritime and territorial issues, maritime piracy and terrorism, international humanitarian law, and international environmental law, on which topics he has also published.

**Aiden Lerch**, who contributed to Chapter 9, is Associate to the Honourable Judge John Hatzistergos AM, District Court of New South Wales. Aiden graduated with first class honours from the University of Wollongong in 2018. He was awarded the University Medal for ranking first in the graduating class in Law in 2018. In 2017, he studied at St Catherine's College, University of Oxford, as a visiting student. Aiden's primary research interests are in the law of obligations, particularly tort law and unjust enrichment.

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

## ACKNOWLEDGEMENTS

Joanna Kyriakakis would like to dedicate her chapter to her husband, Peter, for his years of support, and to her son, Jasper, who cut short her contribution to the project by the gift of his arrival. Joanna would like to acknowledge the amazing team of torts teachers she was privileged to teach with when she first began at Monash Law: Drs Karinne Ludlow, Dale Smith and Colin Campbell. Their intellectual rigour, joy and detail in their work and their generosity have set the bar for her own approach to teaching.

Tina Popa would like to dedicate this book to her dear colleague Paul Ryan to thank him for the many conversations and ideas they have exchanged regarding tort law. Tina thanks her husband, Branko Banda, for his unconditional love and support. She also wishes to acknowledge the support of her colleague, mentor and Head of School, Professor Kathy Douglas, for allowing her the time to contribute to this textbook and for being supportive of this project.

Jason Taliadoros wishes to acknowledge the use he has made of the teaching and learning materials developed by Dr Sharon Erbacher and other members of the unit team MLL213 Torts, Deakin Law School, Deakin University.

Lowell Bautista is grateful to his loving wife, Dr Lyra Reyes, and his little boy, Nathaniel David Bautista, for teaching him what is truly important in life: family.

Aiden Lerch would like to thank Bernice Lethlean, Alexia Mihalopolous, Annie Parkin and Romina Santos–Reyftmann for their endless encouragement and support.

The authors and Cambridge University Press would like to thank the following for permission to reproduce material in this book.

Extracts from *Donoghue v Stevenson* [1932] AC 562 reproduced with permission of the Incorporated Council of Law Reporting for England and Wales.

Extracts from *Burnie Port Authority v General Jones Pty Ltd* (1994) 179 CLR 520; *Commonwealth v Introvigne* (1982) 150 CLR 258; *CSR Ltd v Eddy* (2005) 226 CLR 1; *Halliday v Nevill* (1984) 155 CLR 1; *King v Philcox* (2015) 255 CLR 304; *Kuru v New South Wales* (2008) 236 CLR 1; *McHale v Watson* (1966) 115 CLR 199; *Medlin v State Government Insurance Commission* (1995) 182 CLR 1; *New South Wales v Lepore* (2003) 212 CLR 511; *Penfolds Wines Pty Ltd v Elliott* (1946) 74 CLR 204; *Sharman v Evans* (1977) 138 CLR 563; *Town of Port Hedland v Hodder (No 2)* (2012) 43 WAR 383; *Wyong Shire Council v Shirt* (1980) 146 CLR 40, reproduced with permission of Thomson Reuters (Professional) Australia Limited [legal.thomsonreuters.com.au](http://legal.thomsonreuters.com.au). This publication is copyright. Other than for the purposes of and subject to the conditions prescribed under the *Copyright Act 1968* (Cth), no part of it may in any form or by any means (electronic, mechanical, microcopying, photocopying, recording or otherwise) be reproduced, stored in a retrieval system or transmitted without prior written permission. Enquiries should be addressed to Thomson Reuters (Professional) Australia Limited. PO Box 3502, Rozelle NSW 2039. [legal.thomsonreuters.com.au](http://legal.thomsonreuters.com.au).

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)

Extracts from *Watt v Rama* [1972] VR 353 reproduced with permission of the Council of Law Reporting in Victoria.

Extracts from *Caltex Refineries (Qld) Pty Ltd v Stavara* [2009] NSWCA 258, © State of New South Wales (Department of Justice). For current information go to [www.justice.nsw.gov.au](http://www.justice.nsw.gov.au). Reproduced under CC BY 4.0 licence.

Extracts from *King v Philcox* [2015] HCA 19; *Ruddock v Taylor* [2005] HCA 48; *Strong v Woolworths Ltd* [2012] HCA 5; *Trkulja v Google LLC* [2018] HCA 25, © Commonwealth of Australia.

Extracts from Panel of Eminent Persons, *Review of the Law of Negligence* (Final Report, September 2002), © The Commonwealth of Australia. Reproduced with permission.

Extracts from *Myer Stores Ltd v Soo* [1991] 2 VR 597 reproduced with permission of the Council of Law Reporting in Victoria.

Extracts from *Boyd v Mirror Newspapers* [1980] 2 NSWLR 449; *TCN Channel Nine Pty Ltd v Anning* (2002) 54 NSWLR 333; *Toyota Finance Australia Ltd v Dennis* (2002) 58 NSWLR 101, © Council of Law Reporting for New South Wales. Reproduced with permission of the Council of Law Reporting for NSW.

Extract from *Irving v Penguin Books Ltd* [2000] EWHC QB 115 contains public sector information licensed under the Open Government Licence v3.0.

Extract from *Lewandowski v Medrzycki* [2003] VSC 277 © Supreme Court of Victoria.

Extracts from *Nyoni v Shire of Kellerberin* [2017] FCAFC 59 © Federal Court of Australia.

Extracts from *Administration and Probate Act 1958* (Vic); *Wrongs Act 1958* (Vic), © State of Victoria, Australia. Copyright in all legislation of the Parliament of the State of Victoria, Australia, is owned by the Crown in right of the State of Victoria, Australia. DISCLAIMER: This product or service contains an unofficial version of the legislation of the Parliament of State of Victoria. The State of Victoria accepts no responsibility for the accuracy and completeness of any legislation contained in this product or provided through this service.

Extracts from *Civil Liability Act 2002* (NSW); *Motor Accidents Compensation Act 1999* (NSW), © New South Wales Government.

Extracts from *Civil Liability Act 1936* (SA); *Limitation of Actions Act 1936–1948* (SA), © State of South Australia. Reproduced under Creative Commons Attribution 4.0 International (CC BY 4.0). Sourced from the South Australian Legislation website at January 2019. For the latest information on South Australian Government legislation, please go to [www.legislation.sa.gov.au/](http://www.legislation.sa.gov.au/).

Extracts from *Civil Law (Wrongs) Act 2002* (ACT), © Australian Capital Territory Government.

Extracts from *Civil Liability Act 2002* (WA); *Conservation and Land Management Act 1984* (WA), are reproduced by permission of the copyright owner, the State of Western Australia.

Extracts from *Civil Liability Act 2003* (Qld); *Criminal Code* (Qld), © State of Queensland (Office of the Queensland Parliamentary Counsel) 2013. Reproduced under Creative Commons Attribution 4.0 International (CC BY 4.0).

Extracts from *Civil Liability Act 2002* (Tas): the Crown in right of Tasmania holds the copyright in the reproduced material; the Act is reproduced with permission of the Crown in right of Tasmania 2019. Please see [www.legislation.tas.gov.au](http://www.legislation.tas.gov.au) for further information.

*Every effort has been made to trace and acknowledge copyright. The publisher apologises for any accidental infringement and welcomes information that would redress this situation.*

Cambridge University Press

978-1-108-62625-5 — Contemporary Australian Tort Law

Joanna Kyriakakis , Tina Popa , Francine Rochford , Natalia Szablewska , Xiaobo Zhao , Jason Taliadoros , Darren

---

O'Donovan , Lowell Bautista

Frontmatter

[More Information](#)